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Ministry of Attorney General

CRIMINAL JUSTICE BRANCH

Annual Report 2004 - 2005

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Message from the Assistant Deputy Attorney General

The past year saw our branch form a new alliance on the world stage and continue our history of innovation and achievement at home.

Through the Heads of Prosecution, the Criminal Justice Branch has become a member of the International Association of Prosecutors (IAP), an international non-political, non-governmental organization. The IAP's objectives include promoting effective, fair and efficient prosecutions of criminal offences, promoting high standards and principals in the administration of criminal justice including procedures to guard against wrongful convictions, assisting prosecutors internationally in the fight against organized and other crimes, promoting international co-operation, eliminating corruption in public administration and promoting good relationships among individual prosecutors.

At their annual general meeting in Copenhagen in late August, the IAP will present the Air India Prosecution Team with a special award acknowledging their outstanding work.

As a result of our membership in the IAP, we can share valuable knowledge and information with prosecution services around the world, to their benefit and ours. For example, the wrongful conviction issue of common concern was on the agenda at our 2005 Crown Counsel Professional Development Conference. And in the past year, the Criminal Justice Branch took important steps towards combating organized crime by laying the foundation for a unique organized crime unit of prosecutors working closely with police to create viable cases against criminal organizations.

With the Deputy Attorney General's agreement, the branch expanded the number and kinds of criminal-justice-related conferences the Crown can attend to ensure its members maintain their sharp prosecutorial and administrative skills, and share their expertise, in order to better achieve the objectives set out in the IAP constitution.

The branch played an active role in other bodies as well this past year, like the Federal, Provincial and Territorial Heads of Prosecution organization, made up of all the prosecution services in Canada. We have branch representation on 21 subcommittees of the Heads of Prosecution.

The branch has a strong planning culture. Our branch Business Plan, previously entitled the Performance Plan, is being recast and re-invigorated with some new participants in the various subcommittees to bring a focus to our vision as to where we need to take the branch over the next three years. The ministry's new vision, mission, culture and values statement reinforces our branch's own vision and statement of purpose and principles. Encouraging innovation and collaboration are essential if we are to continue to achieve excellence in our workplace.

The new electronic Litigation Management System Project and the rollout of the new JUSTIN interface with PRIME (Police Records Information Management Environment) are just two examples of the branch's commitment to innovation and achievement.

Over the last year, the branch promoted the vital link between the justice system and the larger community. The new and ongoing outreach work we have undertaken within our various communities on progressive justice processes, public education and generally raising our branch profile is being positively received. As we continue to work with the Law Courts Education Society in community outreach programs, such as students' participation in school visits to courts, we begin to address a much needed area of public education.

continued...

My congratulations go to those branch members who have taken their work to their communities and have assisted in developing community justice programs. It is in these ways the Criminal Justice Branch will continue to be recognized for excellence, through outstanding and extraordinary commitment and dedication to public service. The accomplishments of our branch are achievable only because of our own people's perseverance, commitment and hard work.

A special thanks goes to Heather Smart for her tireless effort in pulling together our third annual report.

I would like to thank all Criminal Justice Branch staff for the successes we have achieved over the past year and I look forward to our continuing this momentum in the year to come.

Robert W. G. Gillen, QC
Assistant Deputy Attorney General
Criminal Justice Branch

History of the Criminal Justice Branch

Over three decades ago, the Criminal Justice Branch was created following the provincial government decision that the administration of justice should be regarded as an integrated system.

Prior to April 1, 1974, prosecutions in many Provincial Courts including Vancouver, Victoria, Kelowna, Kamloops, and Prince George were conducted by lawyers hired by the municipalities. In many other locations in the province, Provincial Court prosecutions were conducted by police prosecutors, or the police determined when a lawyer was necessary in Provincial Court and made arrangements to have someone retained. Cases in the County and Supreme Courts were conducted by lawyers, usually from the private Bar, who were specifically retained by the then Director of Criminal Law to prosecute the assize or session. All reports on the outcomes of cases prosecuted in County or Supreme Court were given to the Director of Criminal Law.

On April 1, 1974, the inauguration of the Criminal Justice Branch provided for a decentralized prosecution service, and proceeded to apply consistent prosecution standards throughout the province.

On April 1, 1974, the inauguration of the Criminal Justice Branch provided for a decentralized prosecution service, and proceeded to apply consistent prosecution standards throughout the province.

The branch was initally divided into 13 regions but was later reduced to five regions plus the Criminal Appeals and Special Prosecutions Unit (CASP) and Headquarters.

In the late 1970s and early 1980s, a Crown counsel pre-charge approval process evolved. Normally, there is a two-part test. First: is there a substantial likelihood of conviction and, if so, second: is a prosecution required in the public interest?

In June 1991, following the Discretion to Prosecute Inquiry by Inquiry Commissioner Stephen Owen in 1990, the provincial government passed the *Crown Counsel Act*. The act sets out the functions and responsibilities of Crown counsel, the branch and the Assistant Deputy Attorney General, and addresses the relationship between the Attorney General and the branch.

Today, the Criminal Justice Branch has 751[1] full-time equivalent positions in 39[2] office locations across the province, and is comprised of 413 Crown counsel and 338 administrative staff.

[1] Includes 32 temporary FTEs attributed to certain major prosecutions.

[2] This includes Headquarters, CASP, Crown Offices with Vancouver Youth and Supreme as separate offices.

OVERVIEW

Mandate of the Criminal Justice Branch

The *Crown Counsel Act* affords significant prosecutorial independence to the branch and, at the same time, balances that independence with accountability.

The mandate of the branch is set out in Section 2 of the *Crown Counsel Act*, where it states:

The Branch has the following functions and responsibilities:

(a) to approve and conduct, on behalf of the Crown, all prosecutions of offences in British Columbia;

(b) to initiate and conduct, on behalf of the Crown, all appeals and other proceedings in respect of any prosecution of an offence in British Columbia;

(c) to conduct, on behalf of the Crown, any appeal or other proceeding in respect of a prosecution of an offence, in which the Crown is named as a respondent;

(d) to advise the government on all criminal law matters;

(e) to develop policies and procedures in respect of the administration of criminal justice in British Columbia;

(f) to provide liaison with the media and affected members of the public on all matters respecting approval and conduct of prosecutions of offences or related appeals;

(g) any other function or responsibility assigned to the Branch by the Attorney General.

Section 3 of the act outlines the responsibilities of the Assistant Deputy Attorney General (ADAG):

(1) The ADAG is charged with the administration of the Branch and with carrying out the functions and responsibilities of the Branch under section 2.

(2) The ADAG is designated, for purposes of section 2 of the *Criminal Code*, as a lawful deputy of the Attorney General.

The responsibilities of Crown counsel are stated in section 4 of the act:

(1) The ADAG may designate as "Crown counsel" any individual or class of individual who is lawfully entitled to practise law in British Columbia.

(2) Each Crown counsel is authorized to represent the Crown before all courts in relation to the prosecution of offences.

(3) Subject to the directions of the ADAG or another Crown counsel designated by the ADAG, each Crown counsel is authorized to:

(a) examine all relevant information and documents and, following the examination, to approve for prosecution any offence or offences that he or she considers appropriate,

(b) conduct the prosecutions approved, and

(c) supervise prosecutions of offences that are being initiated or conducted by individuals who are not Crown counsel and, if the interests of justice require, to intervene and to conduct those prosecutions.

(4) The Attorney General may establish an appeal process under which law enforcement officials may appeal the determination of any Crown counsel or special prosecutor not to approve a prosecution.

The *Crown Counsel Act* also governs the relationship between the branch and government through the Attorney General. It requires that directions on specific prosecutions must be in writing and published in the B.C. Gazette. There are analogous provisions for policy and administrative directions. The act also provides for the appointment of special prosecutors by the Assistant Deputy Attorney General when it is necessary in the public interest.

Role of Crown Counsel

The role of Crown counsel as set out in *R. v. Boucher* (1954), 110 CCC 263 (SCC) was recently endorsed in *R. v. Brown*, 2001 BCCA 14. The B.C. Court of Appeal quoted two passages from *Boucher* dealing with the special role of the prosecutor:

At 267, Mr. Justice Taschereau said:
The position held by counsel for the Crown is not that of a lawyer in civil litigation. His functions are quasi-judicial. His duty is not so much to obtain a conviction as to assist the judge and the jury in ensuring that the fullest possible justice is done. His conduct before the Court must always be characterized by moderation and impartiality. He will have properly performed his duty and will be beyond all reproach if, eschewing any appeal to passion, and employing a dignified manner suited to his function, he presents the evidence to the jury without going beyond what it discloses.

At 270, Mr. Justice Rand said:
It cannot be over-emphasized that the purpose of a criminal prosecution is not to obtain a conviction; it is to lay before a jury what the Crown considers to be credible evidence relevant to what is alleged to be a crime. Counsel have a duty to see that all available legal proof of the facts is presented: it should be done firmly and pressed to its legitimate strength, but it must also be done fairly. The role of prosecutor excludes any notion of winning or losing; his function is a matter of public duty than which in civil life there can be none charged with greater personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings.

In *R. v. Logiacco* (1984), 11 CCC (3d) 374 (Ont CA), Mr. Justice Cory stated:
...[T]he role of the Crown Attorney in the administration of justice is of critical importance to the courts and to the community. The Crown prosecutor must proceed courageously in the face of threats and attempts at intimidation. He must see that all matters deserving of prosecution are brought to trial and prosecuted with diligence and dispatch. He must be industrious to ensure that all the arduous preparation has been completed before the matter is brought before the court. He must be of absolute integrity, above all suspicion of unfair compromise or favouritism. The Crown prosecutor must be a symbol of fairness, prompt to make all reasonable disclosures and yet scrupulous in attention to the welfare and safety of witnesses. Much is expected of the Crown prosecutor by the courts. The community looks upon the Crown prosecutor as a symbol of authority and as a spokesman for the community in criminal matters...

Great trust is placed in the Crown prosecutor by the courts and by the public. Heavy obligations are imposed upon him in his quasi-judicial role. To be worthy of the trust and reliance which is placed in his office, he must conduct himself with becoming dignity and fairness.

The foregoing passages are examples of the high standards the Courts have of Crown prosecutors. The obligations of Crown counsel and the dignity expected of that office are exceptional.

OVERVIEW

Vision of the Criminal Justice Branch

The vision of the Criminal Justice Branch is reflective of the recently developed Ministry of Attorney General vision, mission, and culture and values statement (see Appendix C).

The Criminal Justice Branch is committed to providing a prosecution service that:

- is effective and efficient;
- has the role of Crown counsel and the need for independent decision-making, coupled with demonstrated accountability, which is understood by members of the public and government;
- recognizes that by working closely with other justice system partners, while respecting the independent roles of each, it achieves the greatest protection for the public;
- strengthens support for the prosecution function including initiatives to better provide litigation support, professional development and training for all staff, and more effective communication across the branch;
- has an enhanced supportive workplace environment in which all people, whether Crown counsel or administrative support staff, have increased morale;
- has all staff within the branch working in a safe and productive environment;
- has roles, responsibilities and expectations of all members within the branch clarified to ensure that people are doing that for which they are responsible;
- has its goals and actions outlined in the Business Plan appropriately; and
- promotes a culture that supports innovation and change towards the improvement of the delivery of justice.

Criminal Justice Branch
Statement of Purpose and Principles

STATEMENT OF PURPOSE
The Criminal Justice Branch of the Ministry of Attorney General is a key component of British Columbia's criminal justice system.

Our purpose is to contribute to the protection of society by preparing for and conducting prosecutions diligently and fairly, and by striving to develop the most effective methods to administer justice in our community.

STATEMENT OF PRINCIPLES
We, the members of the Criminal Justice Branch, are governed by six fundamental principles in fulfilling our purpose:

Fairness
We act with fairness and impartiality in our pursuit of justice.

Independence
We perform our public service without regard to improper influence or interference.

Rule of Law
We apply the Rule of Law consistently and diligently.

Excellence
We achieve excellence by working together and by employing our skills and knowledge in accordance with the highest ethical standards.

Attitude
We serve the public with courtesy and respect.

Commitment
People are our most valuable resource. We are dedicated to being open, honest and trustworthy and to treating one another with respect, dignity and fairness. We endeavour to recognize individual achievement, to share information, knowledge and resources, and to facilitate career advancement and educational upgrading.

OVERVIEW

Prosecutorial Environment

The broader environment in which the Criminal Justice Branch delivers prosecution services continues to be one of rapidly accelerating change, calling for flexibility and innovation. An important facet of this environment is demonstration of greater accountability in recent years for how public money is spent in the justice system, ensuring that the system continues to focused and efficient. Specific environmental factors include:

New Partnerships
Members of the justice system play distinct roles, a defining feature of which is the independence of each member in relation to the others, e.g., police, Crown counsel and the judiciary. Justice system members recognize the importance of co-operation in a mutually independent environment. While respecting that independence, administrative partnerships among justice system members have become more prevalent and important for the appropriate sharing of information on complex issues and collaborative action.

Complexity
The complexity of the law, justice processes and administrative challenges continues to build in response to the growing complexity and reach of criminal activities.

Technology and Innovation
A technological revolution is moving through the justice system just as it sweeps the wider world. Innovative new ways of sharing information and presenting evidence in court are transforming how the justice system operates.

Widespread use of sophisticated technology for financial and business purposes and for communication by individuals, business, government and other organizations — as well as the criminals who prey on them — have meant that investigating and presenting evidence of these crimes is breaking new ground daily. Innovative means are being used to adapt the rules of evidence developed over centuries to the kinds of evidence created by the electronic age not in existence even a few years ago.

Jurisdictions locally, nationally and internationally are increasingly sharing their innovations and adapting ideas to meet local needs.

Training
The pace of new legislation, the complexity of the justice system and the technological revolution place training in the forefront of the challenges facing the justice system.

For instance, Crown counsel require training to handle changes to the sentencing process, such as more sophisticated psychological assessments of individuals and attempts to modify offender behaviour through individually crafted sentences. New sentence options created for adults and for youths by the federal government require courts to distinguish among the types of offenders, their prospects for rehabilitation and the risk to the public to impose the type of sentence that would address those factors, as well as the traditional considerations of deterrence and denunciation. Specialized risk assessment tools requiring training are being developed for each stage of the justice system, from police release to parole decisions. And training must meet the demands of new laws and new technology, such as database case tracking systems and case preparation software.

Security
Prosecutors and administrative staff increasingly receive threats related to their work, requiring changes to the workplace and new procedures for conducting business.

Information widely disseminated in electronic form demands sophisticated security strategies.

Public Outreach
It has never been more important for all justice system participants to contribute to the education of the general public about their legal system. Today, there is a much greater emphasis placed on explaining justice processes and providing prompt, accurate and appropriate information to the public, through the media, Web sites and responses to individual inquiries.

Criminal Justice Branch Planning

Planning is essential for any effective organization: it is the ongoing effort to respond to changing realities, set clear direction and measurable goals and objectives, and ensure everyone is focused on priorities to accomplish set goals.

The Criminal Justice Branch sets its priorities based on these factors:

- Giving the best possible service to the public in the context of the branch's mandate, vision, purpose and principles, and the professional role of Crown counsel;
- Supporting the branch's workforce with a safe, positive environment; and
- Aligning the branch with the goals and objectives of the Ministry of Attorney General and the provincial government.

The fiscal year 2004/05 was the last year of *The Criminal Justice Branch Performance Plan 2002/03 to 2004/05*, an ambitious set of goals and objectives based upon the branch's view of how to deliver the best service to the public as well as an extensive consultation of all members of the branch at every level of the organization throughout British Columbia.

Planning committees continued their work in the areas of Leadership, Performance Measures, Professional Development, Human Resources, Policy and Procedures, and Workload and Resources.

Achievements flowing from the Performance Plan in 2004/05 include:

- a strong planning culture;
- performance measures gauging core branch functions and supporting the ministry's Service Plan;[1]
- professional training and development activities;
- continuation of a total, multi-year review of branch policies (to be completed in 2005);
- advances with innovative technology projects such as JUSTIN, the integrated electronic database; LMS, the litigation management system now being tested; and the branch's intranet site;
- a branch annual report;
- a branch workload study;
- a comprehensive branch Human Resources Plan;
- a branch recognition strategy;
- Branch Management Committee and Regional Management Committee Charters and definitions of managers' roles;
- leadership and management training;
- establishment of a branch media relations counsel; and
- leadership in national and international law reform.

In 2004/05, the Criminal Justice Branch began developing a new three-year plan, *The Criminal Justice Branch Business Plan 2005/06 to 2007/08*, again to be aligned with the Ministry of Attorney General's service plans and progress reported in the ministry's and branch's annual reports. New planning committees will be constituted to put into action the goals and objectives for 2005/06 to 2007/08.

[1] *e.g., relating to the effectiveness of the prosecution process, the branch established data baselines for measuring the "Median Time to Disposition" (from the swearing of the first Information in a case to the conclusion of sentencing); and the branch laid the groundwork to track the "Elapsed Time to Charge Assessment" (the first phase of the prosecution process leading up to laying charges).*

Highlights of 2004 – 05

The branch led and participated in a wide range of national justice reform committees, including those of the Heads of Prosecution organization comprising all Canadian prosecution services, and the federal-provincial Megacases Working Group.

With its partners, **the Criminal Justice Branch developed another phase of the JUSTIN electronic justice information network that will greatly streamline the justice process.** The JUSTIN/PRIME Interface allows for a single point of data entry and transmission of the data from the police records management system to JUSTIN, the Ministry of Attorney General's case management system.

IMETs (Integrated Market Enforcement Teams) • The branch successfully negotiated a joint venture with the federal prosecution service to protect Canada's capital markets from nationally significant fraud. The agreement gives British Columbia the right of first refusal in providing prosecution services to cases under investigation by the IMETs, which are set up in various major cities in Canada.

The Province funded an Organized Crime Unit, led by senior provincial prosecutors working with federal prosecutors and police, to bring organized crime cases to court. The OCU began processing cases on April 1, 2005.

The Criminal Justice Branch began piloting a new electronic Litigation Management System that modernizes prosecution practices, from disclosure to defence, case preparation and evidence presentation.

The Bilingual Prosecution Group marked 15 years this year of prosecuting cases in French in British Columbia.

The Air India case project team was selected as a finalist in the Innovation category of the 2004 Premier's Awards.

In partnership with the Provincial Court judiciary, the **Criminal Justice Branch participated in the Main Street Criminal Procedure Committee's Backlog Reduction Initiative,** which succeeded in reducing backlog at the Main Street courthouse by nearly half.

The branch participated in a number of innovative reform projects in developing new responses to street crime and disorderly behaviour, including: the Street Crime Working Group; an initiative referring some provincially prosecuted cases to the Drug Treatment Court in Vancouver; and a program in Vancouver to identify chronic offenders and refer them to services to reduce recidivism.

The Criminal Justice Branch contributed to amendments to the provincial Motor Vehicle Act for the treatment and rehabilitation of substance abusers involved in motor vehicle accidents. The branch also developed the federal government's proposed legislation to combat drug impaired driving.

The branch led and participated in a wide range of national justice reform committees, including those of the Heads of Prosecution organization comprising all Canadian prosecution services, and the federal-provincial Megacases Working Group.

Restorative Justice

The Criminal Justice Branch strongly supports the philosophy and principles of restorative justice. By involving the offender, victims and the community, the offender is held accountable for criminal behaviour while seeking to make amends for the harm done to victims and the community. In appropriate cases, the outcomes may be more meaningful than those available in the traditional justice system.

The branch is particularly supportive of Aboriginal restorative justice programs that are based in part on traditional values and customs. CJB encourages programs that aim to reduce the over-representation of Aboriginal peoples in the criminal justice system, and assist Aboriginal communities in positively reintegrating the offender, promote reconciliation between the victim and the offender, and help restore the harmony of the community.

In November 2004, Assistant Deputy Attorney General Bob Gillen was the guest speaker at a luncheon held to honour the 1,000th restorative justice referral in a program started up by the RCMP and the John Howard Society in Nanaimo. In the last four years of the Nanaimo Restorative Justice Program, the average rate of reoffending is five per cent for those who have been referred to the program. The program has evolved to where a number of large retailers in the city are using the process almost exclusively for first-time shoplifters.

A decade ago it was found Canada had the highest incarceration rate in the world for youths — one in three in the justice system ended up in custody — and they knew something had to change.

Speaking at the luncheon, Bob Gillen noted a decade ago it was found Canada had the highest incarceration rate in the world for youths — one in three in the justice system ended up in custody — and they knew something had to change. And that, he said, was a renewed "restraint" in the use of court sanctions. He emphasized restorative justice is well suited to young and first offenders, particularly in small communities.

Throughout the province, many Crown counsel are doing work to facilitate restorative justice in their communities, either on an individual case by case basis or in collaboration with Aboriginal communities and other justice partners.

In Powell River, Administrative Crown Counsel John Sinclair has sat as a member of the Sliammon Native Justice Committee since it was formed in 1989, longer than any other non-Aboriginal person. John is a resource and sounding board for the committee:
"My membership in the committee has been a part of my goal of developing efficient methods of administering justice in the community, and ensuring that justice is done and seen to be done."

When prosecuting a notorious "bullying" case in Abbotsford, Wendy Van Tongeron Harvey assisted with having a sentencing circle as the sentencing hearing. Wendy was involved in a number of sentencing circles in the Moran residential school abuses prosecutions as well.

In Oliver, Brent Bagnall represents the branch in a group that is in the early stages of setting up a restorative justice program. It is anticipated the program would be directed at young people, 12 to 18 years old, who would otherwise be charged with an offence. To proceed through restorative justice, the police, the offender, the offender's guardian and victims must all be willing to take part. The police would be required to complete a screening form to determine whether the circumstances would permit a referral for restorative justice.

In Prince Rupert, all Crowns have the option to refer matters to a local restorative justice program for both adults and youth.

continued...

OPERATIONS

Street Crime Working Group

In March 2004, the Attorney General of British Columbia announced the Street Crime Working Group. The mandate of the group was to develop new criminal justice system responses to street crime and disorderly behaviour, and to report back to the Justice Review Task Force.

The group consisted of representatives from a number of organizations, including the Provincial Court of British Columbia, Vancouver Coastal Health Authority, Corrections, the Vancouver Agreement, the defence bar and the Vancouver Police Department. The Criminal Justice Branch was represented by Daniel L. Mulligan, administrative Crown for the bail team at 222 Main Street.

During its mandate, the Street Crime Working Group held two public forums and consulted with a wide variety of stakeholders. A report and recommendations were submitted to the Justice Review Task Force on March 31, 2005.

Drug Treatment Court and Chronic Offenders

The Criminal Justice Branch is participating in two initiatives. Both are an outflow of the Street Crime Working Group and are in early stages.

On a pilot basis, Crown counsel at 222 Main Street are referring a select number of provincially prosecuted cases to Drug Treatment Court.

Secondly, Crown counsel are participating in a program, along with Vancouver Coastal Health Authority, Corrections and Vancouver Police Department, to identify chronic offenders and ensure they are referred to services that could help reduce recidivism. Those services include housing, addiction treatment and mental health counselling.

Restorative Justice
continued...

For the Crown in Prince George, there is a diversion program available to Aboriginal accused only that includes restorative justice, and prosecutors have options to use restorative justice through other local alternative measure programs.

Administrative Crown Counsel James Swales in Vanderhoof has experience in the formation of a restorative justice program and he is using that experience in the formation of another at the present.

Barry Nordin, Administrative Crown Counsel for Fort Nelson and the northern circuit, is involved in formal restorative justice programs, such as with the Fort Nelson First Nation, and informal programs, such as through the Taku River Tlingit First Nation.

Youth Justice

The *Youth Criminal Justice Act (Canada)* was implemented on April 1, 2003, replacing the 1984 *Young Offenders Act* with far-reaching and complex new legislation. The *Youth Criminal Justice Act (YCJA)* adopts long-standing British Columbia policies and practises in relation to youth justice. This includes extensive use of alternatives to prosecution as a response to non-violent youth crime, restriction of custodial sentences to more serious, especially violent, offences and multi-disciplinary approaches to youth crime.

Since the *YCJA* has come into force, there has been an approximate 30 per cent decrease in the number of youth court prosecutions in British Columbia, possibly due to the expanded use of extrajudicial measures (formerly alternative measures).

Nonetheless, the first years of implementation have generated a body of case law, including a number of appeals in B.C. and the Supreme Court of Canada (SCC) on questions of significant statutory interpretation. The Criminal Justice Branch has standing in three SCC cases, the determination of which will have significant impact on issues of youth justice across Canada.

The new provincial *Youth Justice Act* was assented to November 17, 2003. It complements the *YCJA* and updates and consolidates all provincial youth justice legislation.

The branch continues to anticipate and respond to emerging issues related to the *YCJA*. This includes working closely with local Crown counsel and the Ministry of Children and Family Development and the Ministry of Public Safety and Solicitor General to ensure a consistent and compatible approach. Both ministries are heavily impacted by the *YCJA* in the areas of policing, corrections and probation services.

The Criminal Justice Branch maintains involvement in national youth justice forums, including the Coordinating Committee of Senior Officials (Youth Justice) and the National Crown Counsel Youth Justice Network, which is a B.C. initiative.

Main Street Backlog Reduction Initiative

When court case delays at Vancouver Adult Criminal Court (222 Main Street) reached an unacceptable level in January 2004, the Chief Judge and the Attorney General agreed that the Main Street Criminal Procedures Committee would focus on decreasing the delay.

According to a semi-annual survey conducted by the Office of the Chief Judge, the next available trial dates for cases taking a half day were assessed at 12 months. As the standard set by the Chief Judge is six months or less, the mandate of the committee was to reduce the backlog to six months.

In the *Report on Backlog in Vancouver Adult Criminal Court, January 2005*, the committee recommended the Crown obtain additional resources to enable prosecutors to manage three days of trials in a single day, among other recommendations. It also noted there are no problems in the area of processing charge approvals. The branch is currently studying the issue of resources.

Law Reform

The Criminal Justice Branch advocates procedural reforms in criminal law that ensure the continuation of existing safeguards while improving the delivery of criminal justice through the use of technology.

The branch is active in many other law reform areas, and this is reflected in the listed representation of British Columbia Crown lawyers on the various subcommittees of the Federal-Provincial-Territorial Heads of Prosecution Committee.

HEADS OF PROSECUTION SUBCOMMITTEES

Practice Management Subcommittees

Business Group
Robert Gillen
Jenny Manton
Brent Thompson

Information Technology
Debbie Harris
Dan Scanlan

Canadian Centre for Justice Statistics on Measuring Prosecution Services
Robert Gillen
Reg Dumont
Brent Thompson

Security and Intimidation
Robert Gillen

Quality Assurance
Geoffrey Gaul

Legal Issues Subcommittees

Communities of Knowledge
Geoffrey Gaul

Mega Cases
David Jardine

Police Training
Gregory Fitch

Disclosure of Police Misconduct
Robert Gillen

Aboriginal Policing and Prosecutions
Roger Cutler
Brian Rendell

Role of the Northern Prosecutor
Oleh Kuzma

Organized Crime
Mark Levitz

Counterfeiting Offences
Richard de Boer

Police Informants
Terence Schultes

Spam
Dan Scanlan

Concurrent Jurisdiction
Richard Isaac

National Liaison Committee on Proceeds of Crime
Patricia Donald

Expert Witnesses
Terence Schultes

Inreach / Outreach Subcommittees

Outreach
Geoffrey Gaul

Explaining the Decision Not to Prosecute
Geoffrey Gaul

Prosecutors' Training
Geoffrey Gaul

Heads of Prosecution Miscarriages of Justice Report

The start of 2005 saw the release of the *Report on the Prevention of Miscarriages of Justice*, as compiled by the Heads of Prosecution Committee working group. The group's mandate was to develop a list of best practices to assist prosecutors and police better in understanding the causes of wrongful convictions and to recommend proactive policies, protocols and educational training to guard against future miscarriages of justice.

The 155-page report includes an extensive review of the literature on wrongful convictions and discusses the issues that are identified repeatedly as key factors contributing to wrongful convictions.

The 155-page report includes an extensive review of the literature on wrongful convictions and discusses the issues that are identified repeatedly as key factors contributing to wrongful convictions. The report also covers a number of important subjects such as DNA evidence, in-custody informers, eyewitness identification and testimony, false confessions and continuing legal education.

The report was developed for the consideration of all ministers of justice, and it has been adopted in principle. British Columbia is studying the report to determine the steps required to address the various recommendations.

The topic of wrongful convictions was addressed during the 2005 Crown Counsel Professional Development Conference.

The full report is available in PDF format on the federal government's Web site at: www.canada.justice.gc.ca/en/dept/pub/hop/.

Branch Policy Revision Project

In 2004 - 05, the Criminal Justice Branch continued with a review of 117 policies, most of which provide guidelines for the exercise of prosecutorial discretion.

Under this project, policies are being revised in a new format to highlight necessary statements of policy, as well as shortened and rewritten to provide broader, less restrictive guidelines on the exercise of prosecutorial discretion as appropriate.

Thirty-eight of the reviewed policies have been deleted as no longer requiring a public statement of branch policy.

As of March 2005, most of the remaining policies and a number of related Practice Bulletins have been revised, with a new policy manual expected for November 2005.

High-Risk Offenders Identification Program

Crown counsel have been able to use the information from the HROIP on bail and sentencing proceedings, whether or not a dangerous offender or long-term offender designation is eventually sought.

As of March 31, 2005, the High-Risk Offender Identification Program (HROIP) has identified, and flagged in JUSTIN, approximately 1600 individuals as being at high risk to commit violent offences, 1100 of which are active files. Of these, 97 per cent have a history of committing sexual offences. About 120 high-risk offenders are being added annually to the program database.

About 70 per cent of new files are created under the direction of Crown counsel, and about 30 per cent are identified by federal and provincial corrections and police.

Since its creation in 2000, the High-Risk Offender Community Notification Advisory Program (CNAP) has resulted in a significant proportion of these additions to the HROIP. CNAP is managed by B.C. Corrections to assist in addressing the danger posed to the public when prisoners who are assessed as being at a high risk to re-offend violently are released from prison without parole or probation conditions.

A committee (composed of representatives from the policing community, federal and provincial corrections services, victims services, Criminal Justice Branch headquarters and the HROIP manager) reviews each case and formulates recommendations as to whether there should be a community notification regarding the release of the offender and whether there should be an application for a recognizance under sections 810.1 or 810.2 of the *Criminal Code*. The recommendations are then conveyed to the police force of jurisdiction where the offender will be released or plans to locate after release or, in many cases, forwarded to the police of jurisdiction of the institution that the offender is being released from.

If the offender was already identified by the HROIP, the manager provides additional background information on the offender. Local Crown counsel become involved if the police decide to pursue the recognizance application.

Through JUSTIN, Crown counsel have been alerted to those individuals who have been flagged by the HROIP as soon as the Report to Crown Counsel is received for charge assessment. Crown counsel have been able to use the information available from the HROIP on bail and sentencing proceedings, whether or not a dangerous offender or long-term offender designation is eventually sought.

The HROIP is a resource to the RCMP, municipal police forces, and provincial and federal corrections officials. It has a national profile and shares information with other jurisdictions when individuals identified as dangerous cross provincial boundaries. Approximately 400 such offenders have been registered on CPIC at the request of the HROIP and the program continues to respond to inquiries and receives information from provincial, territorial, federal and foreign jurisdictions.

As a result of the September 2003 Supreme Court of Canada decision pertaining to court declared dangerous offenders and long-term offenders (*R. v. Johnson* and its companion cases), there have been 16 cases in which defence appeals from dangerous offender designations have been allowed and new hearings ordered.

These cases consist of predicate offences committed prior to the August 1, 1997, amendments to the *Criminal Code* provisions. These new hearings require a large volume of additional, new information from federal and provincial corrections for use by Crown and Forensic Psychiatric Services. Because of the new hearings, the workload of every Crown counsel region in the province is increased.

Financial and Administrative Audits:

transcript policies and procedures, and the consideration of digital sound recording in the courtroom

In 2003, the Criminal Justice Branch and Courts Services Branch requested the Internal Audit and Advisory Services of the Office of the Comptroller General to perform a review of transcript policies and procedures to identify process efficiencies and cost-saving opportunities. The review also incorporated an examination of the feasibility of implementing digital sound recording in courtrooms and whether there would be any benefits in doing so.

Transcript companies are contracted with on a regional basis to provide transcripts of court proceedings. The contracts are managed by the Courts Services Branch but the Criminal Justice Branch deals directly with the transcript companies when ordering, receiving and paying for transcripts.

Overall, prior to the review, the branch performed well with respect to transcript ordering and administration. The review found a high level of satisfaction with the services provided by the transcript companies.

However, some key recommendations were made:

- Policies and procedures, and staff roles and responsibilities, in the transcript ordering and receiving process needed to be defined more clearly, documented and communicated;

- Contract terms, especially pricing, copyright, and the availability of electronic copies, needed to be better communicated. The auditors determined that some employees may be placing more expensive transcript orders (such as daily or expedited orders) because they didn't know there was a price difference between the types of orders. Further, they found employees did not know electronic copies are available at no additional cost. The auditors recommended that the two branches develop and document guidelines for placing routine and same party orders, and thereby encourage the modification of ordering processes to reduce costs where possible; and

- The ministry develop a business case for implementing digital sound recording in selected provincial courtrooms.

In response to the recommendations, the Criminal Justice Branch distributed Management Services Bulletin 04-02, which provides a clear statement of the proper procedures to follow when ordering and receiving transcripts. Regional managers of administrative services were instructed to ensure all Crown and staff involved in the ordering and receipt of transcripts understand the contents of the bulletin. Although no clear link to the bulletin and information campaign was established, it is notable that transcript expenditures decreased by 22% from fiscal 2003/04 to 2004/05.

Courts Services Branch has begun the process of upgrading many of the provincial courtrooms to digital sound. To Crown, the benefits of digital sound recording are clearer voice reproduction and instant access to any point in the voice record.

Guatemala Crime Scene Investigation Project

From September 2002 to February 2004, over 500 Guatemalan police officers and public prosecutors received training in the first instalment of this project.

Under the management of the Law Courts Education Society of B.C. (LCES), and funded by the Canadian International Development Agency (CIDA), the Guatemala Crime Scene Investigation Project is the latest instalment of an international justice project.

The Central American country of Guatemala is situated between the countries of Mexico, Belize, Honduras and El Salvador. After 36 years of armed internal conflict, a peace agreement was struck in 1996. Today, Guatemala is a constitutional democratic republic.

LCES partnered with the Criminal Justice Branch, the RCMP and CAFCA (a Guatemalan non-governmental organization whose acronym in English translates to the Centre of Forensic Analysis and Applied Sciences) to develop a basic training program on crime scene investigation techniques. The intent was to teach Guatemalan prosecutors and police how to protect crime scenes, and gather and protect basic physical evidence such as fingerprints, hairs, fibers, blood; as well as how to take photographs and sketch the scene. From September 2002 to February 2004, over 500 police officers and public prosecutors received training.

Following the success of the basic training program, a more advanced training project was launched in April 2004. Crown Counsel Cal Deedman was seconded for three months from the Criminal Appeals and Special Prosecutions Office. Together with Staff Sergeant Jack Mellis of the RCMP's Regional Forensic Identification Support Services, Cal Deedman designed a five-week Advanced Crime Scene Examination Course for the project.

A group of 12 Guatemalans—six police officers, five prosecutors and the project coordinator from CAFCA—attended the five-week course at the RCMP Training Centre in Chilliwack from May to June 2004. The course was taught through interpreters and the course materials were translated into Spanish. Cal Deedman was the primary interpreter and translator. Twenty RCMP members were rotated throughout the course as instructors. A total of nine bilingual RCMP members and a civilian volunteer, working in teams of two, did week-long stints as back-up interpreters. The Guatemalans were given written and practical exams during the course. All successfully completed the course and met the requirements of the RCMP training standard.

Attending the graduation ceremony were the Assistant Deputy Attorney General Robert W. G. Gillen, QC; Executive Director of LCES Rick Craig; Inspector Mike Aubrey, Officer in Charge of training for the Pacific Region; Inspector Ed Podworny, Officer in Charge of Forensic Identification Services for the Pacific Region; and Inspector Brian Andrews, Officer in Charge of Integrated Forensic Identification Services for the Lower Mainland.

November 2004 was the start of a three-year project encompassing the development and implementation of a two-week advanced training program in Guatemala. A project team consisting of Rick Craig, Cal Deedman, and Sergeants Tim Sleigh and Richard Matte of the RCMP Forensic Identification Section visited Guatemala from November 7 to 20.

The purpose of the trip was two-fold: first, to monitor a two-week Advanced Crime Scene Examination Course being taught in Guatemala City to a mixed group of 25 Guatemalan prosecutors and police officers

— the course was taught by their colleagues who had received the training in Canada based on the core content of the Canadian five-week course; and second, to attend homicide scenes in the metropolitan area and observe the manner in which Guatemalan crime scene examiners process them.

The two RCMP project team members were favourably impressed by how the course was taught. At a debriefing session, they provided the instructors with a detailed critique of the course and many helpful suggestions on how it might be improved.

They also thought the Guatemalan crime scene teams working in and around the capital were doing a reasonably good job under difficult circumstances. Guatemala is a violent country. The capital, with a population of roughly two million, has an average of 15 homicides a day.

LCES, with funding from CIDA and with in-kind support from the Ministry of Attorney General, is also developing international programs in South Africa, China and Montenegro. The society has also made exploratory visits to Ethiopia and Somalia.

The LCES Web site is located at: www.lawcourtsed.ca/index.cfm.

The monitoring team visits the Canadian embassy in Guatemala, November 2004. L - R: Sgt. Richard Matte, RCMP; Sgt. Tim Sleigh, RCMP. Ambassador James Lambert; Cal Deedman, Crown Counsel; Fred Yackman, documentary film maker; Rick Craig, Executive Director, Law Courts Education Society of B.C.

Using an improvised chamber, Sgt. Richard Matte demonstrates cyanoacrylate fuming, a technique employed to develop fingerprints on plastic.

Crown Counsel Cal Deedman (left) and RCMP Staff Sergeant Jack Mellis (right) with Guatemalan police officers and prosecutors and RCMP helicopter pilot Corporal Dwayne Jennings, following an aerial photography exercise at Chilliwack in June 2004.

OPERATIONS

Criminal Justice Branch Correspondence

One of the challenges in correspondence work is not being able to anticipate the cresting cycles of the letter-writing public. Changes of any sort, whether government, ministers or policies, often result in a spike in correspondence. In the realm of criminal justice, a high-profile trial or simply a trial that cannot support the criminal charges the public would like to see, usually guarantees there will be letters requiring responses.

The Criminal Justice Branch Correspondence Unit works out of headquarters and is staffed by Crown Counsel Stan Lowe, Writer Heather Smart and Legal Secretary Gail Bettger. Crown Counsel Lee Porteous was at the helm for a number of years, which she relinquished when she took a half-year leave in 2004.

A variety of topics were the basis for letters and e-mails from the public during fiscal 2004/05. A substantial number focused on the prosecution of polygamy and several individual cases that caught the media spotlight (such as R. v. Vojkovic, Morris, Ellard, Bertuzzi, Ramsey, Robinson, Cran, Malik/Bagri).

Of the 247 responses drafted and managed by the unit last year, 116 were for the Attorney General and 37 were "reply direct" from the Assistant Deputy Attorney General and Regional Crown Counsels. Plus, seventy-eight responses to "Webmails" were prepared, and another 16 were either template responses for write-in campaigns or wording provided for other ministries and the premier's office.

Victim Impact Statement Pilot Project

The Victim Impact Statement Pilot Project was a two-step *Victims of Crime Act* contact mailing system designed to collect, record and compare the postage costs from the pilot project with the postage costs normally incurred by the branch, with a goal to achieve cost savings.

To meet *Victims of Crime Act* requirements, the current practice is to mail a large envelope of materials costing $1.38 in postage to each person identified as a victim of an offence. For the pilot project, a mandatory first mailing package was developed comprised of five pages that fell into the letter-size category, costing $0.49 in postage. It was explained to individuals in the first mailing that they had the option of contacting the office to request a victim impact statement form should they wish to fill one out.

The pilot project was carried out in the Nelson Crown office and ran for four months in 2004. During the four months, 97 first mailing packages were sent out, 13 first mailing packages were resent and four second mailings of the victim impact statement form were requested. Postage costs were $55.86, resulting in a savings of $95.94. The project team recognized other factors should be evaluated, such as the effect on victim service agencies and the implications for Crown at sentencing. The project results and the committee's findings have been tabulated and will be sent to branch executive for review in early fiscal 2005/06.

technology

Litigation Management System Project

The Litigation Management System Project was initiated in the fall of 2001 to address the growing number of major cases and the reality that cases are becoming larger, more complex and document-intensive. Additionally, documentation provided to the Crown from the police and others is being provided more and more in varying types of electronic formats.

The purpose of the project is to procure and implement a commercial litigation support software package that will assist Crown counsel with evidence management and to facilitate case analysis, trial preparation and disclosure.

Detailed business requirements were developed and analyzed, and a project manager was hired to manage the Request for Proposal (RFP) process to acquire a software solution.

The RFP closed in February 2004. An evaluation committee was struck and conducted an extensive two-month evaluation process, and a successful software product called Ringtail was selected in April 2004.

The project team has developed business procedures and training materials, which are being tested through three pilots. Findings from those pilots will help to guide the branch as it implements this technology for appropriate cases.

Information Security: Two-Factor Authentication

The Criminal Justice Branch is committed to increasing the security of its data. One method the branch is piloting is two-factor authentication.

Two-factor authentication, as the name implies, entails a two-part process in accessing a computer that is linked to the government network system.

A project team consisting of the Criminal Justice Branch, Common Information Technology Services and Information Technology Services Division has been established to develop a plan to pilot the security software and to test the security of the corporate infrastructure.

The branch hopes to have enhanced security with two-factor authentication by the end of the 2005 – 06 fiscal year. Any lessons learned will assist the ministry as it plans a more global rollout of this technology.

TECHNOLOGY

CJB Intranet Publishing Project

The Criminal Justice Branch established an intranet site in March 2003 to improve internal communications and to meet the performance plan goal of timely, concise and relevant communication. Work continues on this project to improve and enhance the intranet site.

After receiving feedback from users, the CJB intranet site was reorganized and relaunched in August 2004. The site was revised to make information more easily accessible and a customized search function was implemented.

The ministry is in the process of identifying an appropriate enterprise content management application that will have a direct impact on the future of the CJB intranet site as it currently exists. The application will provide capabilities for knowledge management, web collaboration and work flow. The branch is very optimistic that this future ministry direction will enhance internal communications.

Digital Dictation Pilot Project

Digital recorders offer various advantages over analogue (tape based) dictation and transcription. To evaluate these advantages, the Criminal Justice Branch is conducting a pilot project on the use of digital dictation units.

The benefits of digital recording include the ability to send dictations by e-mail attachment to others to listen to or transcribe. This would be helpful when support staff are located in different offices or when the dictation is done away from the office. Other benefits are better sound quality; easier insertion and deletion of recordings; improved storage and archive options; and less chance of mechanical breakdown as digital recorders do not have moving parts.

There are two phases to the pilot. In phase one, which is already completed, different models of digital hand-held recorders and field testing of the accompanying software were evaluated as well as the vendor-provided transcription hardware and software.

The findings from phase one were:

- digital dictation units, overall, have shown to have the expected advantages over its analogue counterpart;
- the tested digital recorders and transcription units are only slightly more costly than tape based systems;
- overall, the software for sending digital files by e-mail and the transcription system hardware can be considered very 'user friendly' and a person can start using the new set-up with little training;
- one model tested better than another; and
- the feedback from the users of the digital dictation technology was positive, indicating a successful phase one for this pilot.

Recommendations from the phase one pilot include prioritizing digital recorders and transcription kits over analogue set-ups for new acquisitions.

Phase two of the pilot will involve evaluating and selecting voice recognition software, which will help further automate the transcribing of digital dictations.

JUSTIN: Justice Information System

The Criminal Justice Branch and its justice partners continue to develop technological methods to assist with the effective management of criminal cases. Through this effort, British Columbia is one of the first jurisdictions on the continent to use the benefits of technology to coordinate all elements of the justice system.

JUSTIN has established a province-wide database of cases, using a standard technology platform, and has replaced a number of existing case tracking systems throughout the province. Direct access to JUSTIN is provided to RCMP, municipal police, Crown counsel, criminal courts registry staff, sheriffs, probation services, judicial trial schedulers and provincial correctional institutions. There are varying degrees of access, ranging from data entry to view only, based on the requirement and security clearance level of the user.

By 2007, it is expected that all Crown offices will receive data electronically through the interface from every police force in British Columbia.

After a successful pilot in the Kelowna Crown office, JUSTIN was implemented in approximately 400 office locations as of July 2001, including all provincial and federal Crown offices, court registries, corrections offices and police detachments.

As the use of the system grows, so does the requirement for enhancements and modifications to meet the needs of the users. For example, an interface has been developed to provide for electronic transmission of the data from the Police Records Management System (PRIME) to the Crown JUSTIN system. It is operational in the Capital Regional District of Victoria, encompassing four municipal police departments, and in the Port Moody Police Department. In addition, the interface is in the first stages of rollout in many locations in Vancouver and the surrounding populated areas. By 2007, it is expected that all Crown offices will receive data electronically through the interface from every police force in British Columbia.

Future developments will include an enhanced method of on-line charge approval and the ability to scan and store attachments from the Report to Crown Counsel into JUSTIN.

HEADQUARTERS

Criminal Justice Branch Headquarters is located in Victoria, the provincial capital of British Columbia. It is here that the overall administration and management of the branch takes place.

Assistant Deputy Attorney General Robert W. Gillen, QC, (ADAG) oversees the operation of the branch as a whole. In late 2003 a comprehensive reorganization plan was initiated, which saw significant changes to the structure of headquarters. Now supporting the ADAG in the discharge of his duties is Richard de Boer as the director of policy and legislation, Geoffrey Gaul as the director of legal services, and Jenny Manton as the director of management services.

The Criminal Justice Branch serves the Province through five regions plus headquarters and CASP. Each of the regions are headed by a regional Crown counsel and a number of deputy regional Crown counsels. The following reports reflect the individual nature of each region, the differences in their geography plus their mix of rural and urban areas.

The Policy and Legislation Division manages all matters relating to the implementation of policy and legislation. Their focus is to assist Crown counsel in the field through the development and implementation of several ongoing projects including the JUSTIN-PRIME interface and revisions to the Crown Counsel Policy Manual. In addition, the Policy and Legislation Division operates the information and privacy program, the notification of professional bodies, and the management and development of the branch's case tracking system.

The Legal Services Division continues to provide and coordinate the provision of legal and operational advice to Crown counsel in the field. This assistance pertains to a broad spectrum of legal issues. These issues include the DNA data bank provisions, the *Youth Criminal Justice Act (YCJA)*, dangerous offenders, direct indictments, contempt of court, *Motor Vehicle Act*, police charge approvals and environmental prosecutions. The Communications Unit of the Legal Services Division continues to deal with media inquiries and ministry correspondence as part of its internal and external communications portfolio.

The Management Services Division provides management services throughout the province. This includes financial management, human resources, information technology, management information systems, administration and the provision of the branch intranet site. The Litigation Management System, is currently in the pilot stage and managed under this division.

This past year involved a substantial commitment to planning and strategy with the impending implementation of Bill C-16, *The Sex Offender Information Registration Act* (SOIRA), in December 2004 and the creation of the Organized Crime Unit, a specialized unit dedicated to the prosecution of organized crime in the province.

Currently, a new phase of planning has begun at headquarters. This includes the development of the branch's next three-year business plan, a rejuvenation of the planning committee structure and continued work in project management development.

REGION 1

Region 1 comprises all of Vancouver Island plus Powell River on the Sunshine Coast. The regional office is located in Nanaimo and there are eight other offices in Victoria, Colwood, Duncan, Courtenay, Port Alberni, Campbell River, Port Hardy and Powell River. The region encompasses approximately 100 communities served by 34 police detachments.

The day-to-day operations of each local office are managed by an administrative crown counsel and an office manager. Budgeted FTEs represent 56 Crown and 50 support staff. When part-time employees are factored in, the total number of employees is 62 Crown counsel and 55 support staff.

Regional Crown Counsel Jennifer Power heads up Executive Management, which includes Deputy Regional Crown Counsel Glenn Kelt, QC, who looks after the north island offices; Deputy Regional Crown Counsel Christine Lowe who oversees the Victoria and Colwood offices; and Manager of Administrative Services Brian Anderson.

The Regional Management Committee meets at least four times a year to discuss management issues affecting the region. The committee is composed of Administrative Crown Counsels Steve Salmond (Victoria); Anne Wallace, QC (Victoria Youth); Paula Donnachie (Colwood); Brad Tomlin (Duncan); Ron Parsons (Nanaimo); Bruce Morrison (Courtenay); Steve Stirling (Port Alberni); Adrienne Venturini (Campbell River); Leslie Fillingham (Port Hardy); John Sinclair (Powell River) plus Executive Management.

Region 1 is home to some of British Columbia's most experienced and well-respected senior prosecutors. Due, at least in part, to this high level of experience, Region 1 has both the highest new Report to Crown Counsels (RCCs) to support staff ratio, by a considerable margin, and the highest new RCCs to Crown ratio in the branch. The region has become an excellent resource and training ground for young junior prosecutors and law students looking to gain practical legal experience and knowledge.

Region 1
Regional Crown Counsel
Jennifer Power

A large volume of high-profile cases were prosecuted in Region 1 during this reporting period. Some of the more significant cases are noted here.

The Kelly Ellard case involved the November 14, 1997, beating death of 14-year-old Reena Virk in Saanich. Kelly Ellard was a young female offender at the time of the beating who was raised to adult court. After seven years, two appeals and three trials later, Ms. Ellard was found guilty of second-degree murder on April 12, 2005.

Kenneth Alexander Grabowski was charged with multiple counts of arson that caused extensive damage to property in the greater Victoria area between May and June 2000. On February 23, 2004, Mr. Grabowski was found guilty of nine counts of arson. The matter is still before the court for a possible dangerous offender sentencing hearing.

The Evelyn Martens double assisted-suicide case involved a 74-year-old Vancouver Island woman charged with assisting and abetting two women to commit suicide. The case attracted a great deal of public attention due to the legal and moral issues surrounding assisted suicides. The jury found Ms. Martens not guilty.

The Andrew Paul Johnson dangerous offender application entailed attempted kidnappings in Nanaimo and the impersonation of a police officer in those crimes. The case is being heard again in Provincial Court as a result of a Supreme Court of Canada decision dealing with dangerous offenders.

The region has consistently participated in various

community outreach programs. Region 1 Crown have mentored law students from the University of Victoria, and criminology students from Malaspina University College and Simon Fraser University, for valuable work experience and exposure in the legal field. In addition, the Victoria office offers work experience to students in Camosun College's Legal Assistant Program. Through "job-shadowing," Crown counsel have also partnered with the local high schools by allowing Grade 12 students to observe actual court proceedings.

Region 1 Crown counsel have contributed their time and experience to fulfill the branch's community outreach goals by attending forums and meetings with victim support groups, the John Howard Society, local native bands and school administrators. Region 1 also places a high priority on improving and sustaining a positive, good working relationship with the police force, the judiciary and corrections personnel through regular meetings and dialogue. Many Crown counsel have contributed as guest speakers in police-based workshops and provided training throughout the island.

Numerous Crown counsel were recognized by organizations such as the police and school districts for their community outreach efforts and exemplary work on cases. Those recognized include John Carpenter; Frank Dubenski; and Glenn S. Kelt, QC; Bob Jones; Anne Wallace, QC; Nils Jensen and Jamie Dunlap.

Region 1 is very active in the area of employee recognition. Those Crown recognized for their laudable efforts, either for hard work and dedication on specific cases or for day-to-day excellence, include Ron Parsons; Bruce Morrison; Carmen Rogers; Neil Mackenzie; Susan Rupertus; Leslie Baskerville; Catherine Murray; Jenni Gillings; Scott Van Alstine, QC; Gordon Baines; Steve Salmond and Derrill W. Prevett, QC. Support staff recognized by the branch or the region for exemplary service and achievements include Shirley Holtom, Rena Hayes, Bev Owen, Sandra Peterson and Carolle Allen.

During fiscal 04/05, facilities upgrades have taken place in the Powell River and Nanaimo offices. The Powell River office relocated within the court-house to more spacious accommodations. This project was years in the making as the office waited a lengthy time for the previous tenants to complete their plans to relocate. The move results in a 60 per cent increase to the office space and allows for the consolidation of all employees into one area. In Nanaimo, the sixth floor received a long overdue fresh coat of paint and new carpets. The office also received a paging system, which has improved communications within the office.

Most of the planning process is complete to relocate the Victoria office. Currently, the office is located in the basement of the courthouse as well as in an area across the street. The main office basement space is insufficient in size and direct sunlight, providing for a less than ideal environment. Efficiency is impacted with 20 per cent of the office located across the street from the main office. The move, scheduled in fall 2005, will involve the relocation of the entire office to space in the library building, which is across the street from the courthouse. It is anticipated the above-ground, larger, well-lit professional space will increase morale as well as efficiencies when the entire office is brought together.

REGION 2

Region 2, the Vancouver region, is the largest staffed region in the Criminal Justice Branch, consisting of approximately 106 prosecutors and 75 administrative support staff. The region encompasses the City of Vancouver, its adjoining suburbs of Burnaby, Richmond and North and West Vancouver, the Sunshine Coast and the Squamish, Whistler and Pemberton areas. Region 2 is also responsible for prosecutions arising in Bella Bella and Bella Coola, which despite their location are part of the judicial County of Vancouver.

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Region 2 *continued...*

The work of Region 2 carries with it all the challenges and rewards of prosecuting in the province's largest urban centre. Prosecutions conducted in the region in the last year encompass a wide-range of criminal activity, including many serious and high-profile offences. These included the prosecutions of Todd Bertuzzi for an assault committed during a National Hockey League game, of the individuals responsible for the beating death of Aaron Webster in Vancouver's Stanley Park, of those responsible for causing the death in a motor vehicle accident of Richmond RCMP Constable Jimmy Ng, as well as of the person responsible for violent sexual assaults on Downtown Eastside sex trade workers and for sexual assaults on children in Cambodia, all of which the accused recorded on videotape. The Cambodian offences are the subject of the first prosecution in Canada under the "sex tourism" previsions of the *Criminal Code*. All of this is in addition to the prosecution of the literally dozens of homicides, some related to gang activity and the narcotics subculture, as well as numerous other serious offences that are an inevitable by-product of Greater Vancouver's increasingly urbanized setting.

Region 2
Regional Crown Counsel
Terence Schultes

The Crown counsel office at 222 Main Street in Vancouver handles prosecutions in the largest courthouse in the province for offences committed in Vancouver and Burnaby. It also staffs the Bella Bella and Bella Coola circuit court. The location of this courthouse in the Downtown Eastside means that Crown counsel are expert in handling cases involving offenders who have a variety of serious social problems underlying their offending. The deputy regional Crown counsel in charge of the Main Street office is Marion Paruk.

During fiscal 04/05, the region participated significantly in the Justice Review Task Force and its resulting committees. Main Street Administrative Crown Counsel Daniel Mulligan was an integral part of the ministry's Street Crime Working Group, which produced a report recommending innovative approaches to the underlying causes of street crime, including wraparound social and mental health services and the creation of a community court.

Main Street prosecutors were also key participants in a committee chaired by the Chief Judge of the Provincial Court to reduce case backlog in that court, which was created by the absorption of Burnaby Provincial Court into Vancouver Provincial Court. The backlog has been reduced to a manageable level and achieved by several measures including increasing the judges and the trial hours set in each trial court. The region reconfigured its arraignment court model to recapture Crown file ownership and maintain consistency.

The regional Crown office in Vancouver is responsible for the prosecution of matters in the Supreme Court. It houses a group of very senior prosecutors experienced in the prosecution of homicides and other serious offences, as well as less experienced prosecutors who are gaining experience in the conduct of trials in Supreme Court. The administrative Crown counsel for the regional office is Jean Connor.

The regional Crown office also houses Regional Crown Counsel Terence Schultes and Deputy Regional Crown Counsels Craig Dykes and Mary Tait.

This year, former Regional Crown Counsel Michael Hicks was honoured for his integrity, legal skill and many years of distinguished public service by being appointed as a judge of the Provincial Court of British Columbia.

This year, Henry (Hank) Reiner, one of the region's leading counsel, was honoured for his lengthy and impressive record of homicide prosecutions by being named Queen's Counsel.

In the last year, Hank's challenging murder prosecutions have included a double-homicide committed 30 years ago, one requiring the extradition of the accused from the United Kingdom and liaison with Scotland Yard, and another requiring him to take personal conduct of an appeal to the Supreme Court of Canada.

Crown counsel Brendan McCabe received the Vancouver Police Board's Certificate of Merit and Chief Constable's commendation for his work thus far on a case still before the courts. The case is the subject of the first prosecution in Canada under the "sex tourism" provisions of the *Criminal Code*. Brendan was honoured for his extensive advice to police at the earliest stages of their investigation, shortly after the accused was arrested, and was solely responsible for the charge approval, the ongoing advice to police as well as the preliminary hearing. Paul Dohm and Brendan have conduct of the trial, due to commence shortly.

The Youth and Traffic Court Office is based at Robson Square in Vancouver and handles all prosecutions arising under the *Youth Criminal Justice Act*, as well as the prosecution of red-light camera offences and serious or complex traffic offences. Youth prosecutions include many cases involving serious violent offences, including robbery and homicide. This office also acts as a training centre for the region's new Crown counsel. Administrative Crown Counsel Sandra Cunningham, a very senior member of the branch, runs the branch's advocacy skills training program for new Crown counsel.

The North Vancouver office prosecutes offences committed in North and West Vancouver, Squamish and Whistler. It also staffs a circuit court in Pemberton. The numerous serious motor vehicle accidents that arise on Highway 1 and on Highway 99 in the Sea to Sky corridor has meant that the North Vancouver office has developed a high degree of expertise in the prosecution of motor vehicle fatality and serious injury offences. The office also has a positive cooperative relationship with its numerous local police agencies that is the pride of the region. The administrative Crown counsel for North Vancouver is Shannon Halyk.

The Sechelt office is responsible for prosecutions of offences arising on much of the Sunshine Coast, excluding the Powell River area. The geographical separation of the office from the rest of the region, and the resulting difficulty in assigning cases there to Crown counsel who are based on the mainland, requires Sechelt Crown to conduct their prosecutions, including serious and high-profile cases, with a high degree of independence and to demonstrate significant flexibility in fulfilling all of the roles required of the Crown. The administrative Crown counsel in Sechelt is Trevor Cockfield.

The Richmond office is responsible for prosecutions of offences arising in Richmond and the University Endowment lands. A recent trend towards serious violent crime in the Richmond area has seen Crown counsel in Richmond taking on responsibility for the prosecution of several high-profile homicide cases in the past year, including murders associated to organized crime and the narcotics subculture. Administrative Crown Counsel Grant Wong is chair of the region's information technology committee and his expertise in technology issues contributed to the completion of an agreement on electronic disclosure with the RCMP's integrated homicide team that has become a model for the rest of the province.

Crown counsel in Region 2 participated in a significant number of community outreach programs this year, including forums on elder abuse and increasing public awareness of sentencing, and hosted prosecutors from China and Thailand as part of the process of educating justice officials from other jurisdictions about the branch's work. Crown also volunteer with the Law Courts Education Society in their communities and are key components in the society's workshops.

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Region 2 *continued...*

Many Crown counsel attend schools to give talks about the justice system. An example is Administrative Crown Counsel Liz Wolfram who created a school-age advocacy program, which she and Russ Chamberlain present annually to local middle schools.

Administrative Crown Counsel Trevor Cockfield sits on the Sechelt Indian Band Justice Committee and presents numerous seminars to police on the topics of trial preparation, being witnesses and how to do bail hearings with Judicial Justices of the Peace.

The region runs a very successful program of seconding articling students from the private bar for a calendar month to staff the first appearance court (Court 100) in which they may derive some trial experience as well. Sandy Cunningham runs the program at Family Court and Liz Wolfram runs it at Main Street. This year, the program was expanded to include an articling student for traffic trials as well.

For the past three years, the region has entered into arrangements with private law firms for additional staffing for short periods of time, about three to five months. When it is determined there is a budget to hire a lawyer, generally by fall, a junior associate (a two- to four-year call) is hired. The firm is paid at the rate the branch would pay a lawyer for the year of call, with the firm topping up the salary to the firm's level. The region then retains a bright, young lawyer who is very keen to obtain litigation experience. The result is a win-win-win for the region, the firm and the junior associate.

REGION 3

Region 3 is comprised of seven Crown offices: New Westminster Provincial Court, Port Coquitlam, New Westminster Supreme Court, Abbotsford, Surrey, Chilliwack Supreme and Provincial Court, and the Pickton prosecution team. Specific reports for those offices follow.

Budgeted FTEs for the region represent 95 Crown and 80 administrative support staff. When part-time employees are factored in, the actual number of people working for the region is higher than what is shown by the FTE numbers.

New Westminster Provincial Court - Jocelyn Coupal is the administrative Crown for the New Westminster Provincial Court office, where there are six Crown counsel and four support staff. Crown counsel Lionel Yip and Damienne Darby are prosecuting a high-profile shooting where the accused is charged with the attempted murder of two New Westminster police officers.

Port Coquitlam - Samantha Hulme is the administrative Crown for the Port Coquitlam office. Susan McCallum is the administrative Crown for the front-end charge approval team. There are 15 prosecutors and 14 support staff working out of this office.

Port Coquitlam Crown counsel are involved in several community outreach and public education initiatives. The year's highlights of those activities are noted here.

In addition to assisting with province-wide JUSTIN training, Susan McCallum conducted training on topics pertaining to bail hearings, writing reports to Crown counsel, and giving evidence for four different police forces in Coquitlam, Port Moody and Maple Ridge. Susan is also mentoring a historic sex assault trial with Pete Ng and is co-counsel with Wendy Stephen on a double-homicide file in Port Coquitlam.

Port Coquitlam's youth Crown, Jonas Dow, represented the branch at a fetal alcohol syndrome conference in Victoria. Jonas also sits on the board of the Ridge Meadows Youth and Justice Advocacy Association, which is a youth diversion program.

Samantha Hulme is the vice president of the New Westminster Bar Association and spoke recently at the welcoming ceremony for new Provincial Court Judge Michael Hicks (former Regional Crown Counsel for Region 2).

Samantha was the keynote speaker at the Youth Conference Committee AGM in Maple Ridge and attended the Maple Ridge Crystal Meth Forum. In addition, Samantha set up an early custody charge approval process, and arranges and hosts regular meetings in the office with senior police officials from the three Port Coquitlam detachments.

Region 3
Acting Regional Crown Counsel
Melissa Gillespie

Peter Stabler has volunteered to assist the Identity Theft Task Force for the lower mainland on top of his regular senior trial work, and is currently responsible for a number of serious prosecutions including a manslaughter charge.

Andrew MacDonald has been involved in a range of serious files as well. These include a fatality where the main investigator and first officer on the scene would not testify due to post-traumatic stress after attending the fatal; and a matter where an accused male, who allegedly has HIV, is charged for the aggravated sex assault of several people. Andrew also supervised a student placed on a practicum for four months.

For the fifth year, Jay Fogel is the legislative liaison for the Westminster Criminal Canadian Bar Association subsection. Jay is also on the Information Technology Working Group and assists everyone with massive evidence disclosure issues.

Administrative Crown Counsel Samantha Hulme writes about the Crown lawyers in her office: "We've got a great group of prosecutors here that I'm proud of. Kim Wendel and Pete Ng are working very hard. Craig Giles has assumed Andrew Baldwin's front-end position while he is on parental leave and continues with some special assignment work. Randi Conners always works so diligently and has completed a couple of high-profile charge approval bail hearings recently. Randi is assisting Jay Fogel in Supreme Court soon with his first child sex assault case. Janet Dickie has many serious files such as child sex, child abduction, fatalities and multi-day robberies, and is the secretary for the Westminster Criminal Canadian Bar Association as well."

New Westminster Supreme Court has had a very busy year as well. Terry Schultes departed March 1, 2005, after 18 years with Region 3 as Crown counsel. Most recently, Terry was the regional Crown counsel in New Westminster for Region 3 and is now the regional Crown counsel for Region 2. Currently, Melissa Gillespie is acting regional Crown counsel for Region 3.

Richard Romano was named the deputy regional Crown counsel in December after being the acting deputy since March 2004.

Deputy Regional Crown Counsel Fran MacLean returned from a one-year leave in January 2005.

Shirley Pedersen is seconded for the majority of the year and is providing insightful computer instruction tailored to the needs of trial prosecutors. Shirley also continues to be an invaluable resource person on *Youth Criminal Justice Act* matters.

Bob Bonner and John Labossiere concluded a prosecution where the accused male was convicted of five counts of first-degree murder in connection with a drug-related execution that occurred in the Abbotsford area in the mid-1990s. This was a very difficult prosecution that involved numerous witnesses, calling evidence from a convicted killer on these same executions, leading complex wiretap evidence and leading evidence of an undercover police operation.

Wendy Dawson, QC, was awarded her Queen's Counsel designation this year. While seconded to CASP in the unsolved homicide and organized crime sections, Wendy continued to assist Region 3 with wiretap and dangerous offender cases.

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Region 3 *continued...*

Wendy Dawson also spent a major portion of the year prosecuting a challenging and complicated organized crime file in Surrey. Wendy consulted frequently with the Unsolved Homicide Division of the RCMP at E division, was counsel on a dangerous offender application re-hearing, participated on the subcommittee regarding dangerous offenders and long-term offenders and instructed at the Pacific Regional Training Centre in Chilliwack for the RCMP. Wendy is currently prosecuting a first-degree murder with Wayne Norris.

Wendy Stephen, QC, with Marian Brown, prosecuted to conviction three accused charged with first-degree murder. The prosecution was a difficult one with evidence that included wiretap, DNA and undercover techniques. Jay Fogel and Wendy also have conduct of an upcoming prosecution for first-degree murder. Wendy was recently accepted to serve on the 29-member Executive Committee of the International Association of Prosecutors, making her one of three Canadians on that committee.

Wendy Van Tongeren Harvey presented several workshops in February 2005, including Datamaster, major crime investigators and drafting warrants courses. In March 2005, Wendy prosecuted a murder trial to conviction with sentencing scheduled in June.

Towards the end of 2004, Wendy Van Tongeren Harvey was presented a third award from the Red Cross, this time for her outreach activities with volunteers where she teaches about relationship violence and child abuse issues for the RespectED school program.

Jim McCauley is continuing his environmental prosecutions and is one of the most senior experienced environmental lawyers in the branch.

Donna Ballyk, along with Natalie Fowlds from Surrey, has nearly concluded the prosecution of a male on second-degree murder charges with sentencing submissions due soon.

Chris McPherson prosecuted several murder files this year and he, together with Colleen Smith from the Victoria office, are about to commence a two-month murder trial.

Shelene Rail just concluded a serial rapist case with David Sim, where a dangerous offender application is being considered, and is working on a murder file with ad hoc prosecutor G. Jack Harris.

Abbotsford Crown Counsel Office - The amount of major crime files in Abbotsford continues to increase. Carolyn Kramer is the administrative Crown. Two more Crown were hired recently, raising the total number of prosecutors to 17, and the office is supported by 12 administrative staff.

John Labossiere returned to Abbotsford after a long absence prosecuting a difficult five-murder case with Bob Bonner. Both John and Carolyn Kramer have conduct of several major crime and murder files involving electronic disclosure. Wayne Norris has been prosecuting a first-degree murder in New Westminster. Jim Barbour successfully prosecuted a manslaughter case recently.

Surrey Provincial Crown Office - In February 2005, the Criminal Justice Branch lost one of its most beloved prosecutors when Al Adlem passed away suddenly at age 64. Al's abrupt passing was a shock to all. Al was the administrative Crown for the front-end/charge approval function in Surrey. Maurizio Dattilo is now the administrative Crown in this area.

In addition to doing the front-end work in Surrey, Maurizio Dattilo was in New Westminster and successfully argued an appeal involving a teacher convicted of numerous counts of sexual assault in relation to his students, in a case originally prosecuted by Liane O'Grady.

Bob Bonner took over as acting deputy regional Crown counsel in March 2005.

Melissa Gillespie left Surrey in March to become acting regional Crown counsel after Terry Schultes departed. In terms of community outreach last year, Melissa guest-lectured grade 12 students and had a student job-shadow her; she is

also a volunteer director for Surrey Delta Immigrant Services.

Lena Dal Santo returned in late March from leave, and continues her role together with Marnie Westbury as the administrative Crown for major crime matters in Surrey.

In addition to her administrative duties, Marnie Westbury was involved in numerous prosecutions this year including two attempted murders, a stranger rape case and, most recently with Jennifer Lopes, she prosecuted a sexual assault/torture/confinement case.

Craig Yamishiro is the administrative Crown for trials in Surrey and replaced Sonja Lindstrom when she went on leave.

Keith Kinash prosecuted two long murder trials this year: a first-degree murder case with Michell Wray, and a murder with Mary Salaysay.

Michell Wray conducted numerous teaching sessions with White Rock, Surrey and Langley RCMP on the topics of impaired driving, court testimony and writing reports to Crown counsel. She also updated all impaired driving training materials.

Winston Sayson continues to conduct numerous major crime prosecutions, including many motor vehicle fatalities. Winston does a tremendous amount of community outreach. He is the primary student resource lawyer in the Surrey office, and is responsible for supervising the University College of the Fraser Valley students, which the office takes each semester. Winston also lectures routinely to school students on their frequent visits to the Surrey courts.

The accomplishments of the remaining Surrey Crown are too numerous to explain but it is worth noting that virtually all of the trial prosecutors have been involved in major crime prosecutions, including numerous attendances to Supreme Court on related trial/bail matters.

The front-end charge approval/bail team has created an early morning start at 7 a.m. to more efficiently process in-custody charge approvals. With the joint co-operation of the RCMP, Legal Services, court registry, sheriffs and Crown, the timing and efficiency of early morning charge approval/bail hearings of in-custody accused has increased significantly. Carol Konkin, Liz Stafford and Sanford Cohen have ensured the project keeps working.

The Surrey Arraignment Team, consisting of Jim Lees, Brian Shaw and Jennifer Lopes, continues to apply innovative techniques to the early resolution of files, thus reducing court backlogs in Surrey.

Jim Hughes, in his secondment to CJB, applies his vast computer skills to the Litigation Management System Project.

Chilliwack Crown Counsel Office - Gregg Goodfellow is the administrative Crown in what is another busy Crown office in the Fraser Valley. Chilliwack has both a Supreme Court and Provincial Court, and the bulk of Abbotsford's Supreme Court matters are heard here as well.

Henry Waldock has returned from his secondment to the RCMP Pacific Regional Training Center. Henry is currently working in the Chilliwack office but is presently seconded to headquarters. Henry has also taken over the updating and maintenance of Jack Gibson's two manuals for Crown, which are entitled: *Canadian Criminal Code Offences* and *Criminal Law, Evidence, Practice and Procedure*. The manuals are updated six times a year and are available in print and electronically through Carswell.

Bill Herdy prosecuted several serious major crime files this past year and, with John Lester, recently concluded a manslaughter case.

Pickton Team - Mike Petrie; Derrill W. Prevett, QC; Satinder Sidhu; John Ahern and Geoff Baragar are currently assigned to the Pickton prosecution team. Jennifer Lopes, formerly of Surrey, is joining them in May 2005. A trial judge has been assigned to the matter, and pre-trial disclosure and publication bans are scheduled to begin on May 25 for three weeks. The Pickton team continues to be a leader in the area of electronic disclosure.

REGION 4

Region 4 serves the Thompson, Okanagan and Kootenay regions. Its boundaries are the Fraser River on the west, Clearwater and Golden on the north, the Alberta border on the east and the United States border on the south. There are Crown offices in Kamloops, Kelowna, Nelson, Cranbrook, Penticton, Vernon and Salmon Arm.

Region 4
Regional Crown Counsel
Brad Chapman

The region is led by Regional Crown Counsel Brad Chapman; Deputy Regional Crown Counsels Stephen Harrison and Jeff Dyment; and the Manager, Administrative Services Marg Johnson. Jeff Dyment was appointed the deputy regional Crown counsel for the Okanagan in 2004.

There is normally a third deputy regional Crown counsel in Region 4. That position was vacated when former Deputy Regional Crown Counsel Ronald Webb was appointed to the British Columbia Provincial Court in 2004. Hiring for that position will occur in 2005.

Each Crown counsel office has an administrative Crown counsel and an officer manager to co-ordinate the management of their particular location and the satellite offices they serve. In total, there are 22 satellite locations. These offices receive Reports to Crown Counsel (RCCs) from 53 RCMP detachments and one municipal police force. In terms of resources, there are 47 Crown counsel and 38 support staff in Region 3. During the past year the region received 11,120 RCCs.

The region has considerable strength in its prosecutors as on average each lawyer has been with the Criminal Justice Branch for 12 years. Support staff experience also has considerable depth with an average experience of 12 years. Staff routinely participate on branch-wide initiatives and involve themselves in community-based activities.

There have been a number of significant prosecutions undertaken within the region during the past fiscal year. These have include a number of dangerous offender/long-term offender applications, some of which have now concluded, and others that are set for hearing in the near future. As well, a number of murder prosecutions were commenced, which are in different stages of the trial process. One of these in particular, the matter of *R. v. Therrien,* has resulted in a significant pre-trial Supreme Court ruling dealing with electronic disclosure.

With the assistance of counsel from Region 1, an individual was convicted of offences involving the harassment and threatening of the Office of the Superintendent of Motor Vehicles.

A number of prosecutors from the Kamloops Crown counsel office are involved in a major prosecution of an allegation of conspiracy, which involves theft and fraud relating to a significant number of expensive automobiles and other motorized vehicles.

Many Crown counsel in the Region 4 participate in various educational programs in their respective communities. Prosecutors speak to students in elementary and high schools as well as conduct lectures at the two university-colleges in the region. In conjunction with the Law Courts Education Society, many Crown counsel speak to school and community groups who visit the courthouses throughout the year, thereby providing information and insight about the criminal justice system to members of the community. Additionally, Crown counsel regularly participate in Law Day activities held in their respective communities.

Other community outreach activities include working with a mentoring program for troubled female youths at community-outreach sessions in Kamloops; speaking to community service organizations such as Rotary

Clubs; presentations to Elizabeth Fry Association members; attending monthly Violence Against Women in Relationships committee meetings at a women's transition house in Vernon; and staffing an information booth at a college career fair in Cranbrook.

Region 4 also has a Crown representative on a relationship violence resource network in the East Kootenays and also participates at a victims assistance training seminar, along with the regular training and information sessions held with the local RCMP detachments.

Each year, the region supports the Youth Employment Program by providing work experience to university students. Region 3 also routinely offers a rotation to articling students from local law firms.

From a facilities perspective, improvements were made to workstations and work areas in several offices. The Vernon office moved to a new location near the courthouse in spring 2004. The Penticton office was expanded and renovated, so there is now sufficient space for staff to be located together for the first time after their move in September 2004. Following renovations, the Cranbrook office moved to a new space in April 2005, and the Crown office in Salmon Arm will relocate in December 2005, upon the completion of a new courthouse.

REGION 5

Region 5 is vast — it is the largest Crown region in British Columbia, occupying the province's northern two-thirds. The region serves an area bounded on the south by 100 Mile House, on the north by the Yukon border, on the east by the Alberta border, and on the west by the Queen Charlotte Islands and the Pacific Ocean.

There are 10 separate and distinct offices in Region 5, which are broken into sub-regions determined by their geographical proximity. The Peace River/Northeast Sub-Region is comprised of Fort Nelson, Fort St. John and Dawson Creek, and occupies an area in the northeastern corner of B.C. The Cariboo Sub-Region is made up of offices in Williams Lake and Quesnel. The North-west Sub-Region includes offices in Smithers, Terrace and Prince Rupert. The Central Sub-Region, and the largest in terms of serving Crown counsel, is composed of Prince George and Vanderhoof.

Additionally, the regional Crown counsel head office, charged with the management of the entire region, is located in Prince George although it is separate and apart from the local Prince George office.

The region is led by Regional Crown Counsel Oleh S. Kuzma, QC; Deputy Regional Crown Counsels Ray Hall and John Swanson; and the Manager, Administrative Services Peter Pang.

A number of Crown counsel within Region 5 are elected members of the Provincial Counsel of the Canadian Bar Association and have contributed through that organization to the profession at large. Additionally, a region member is a bencher with the Law Society of British Columbia, and has served in that position for some years.

In respect of contribution to public education in the smaller communities located in Region 5, an increasing number of Crown counsel have undertaken the responsibility of teaching either at the community college level or at the University of Northern B.C.

In keeping with the electoral atmosphere of 2005, a member of the region was selected for the Citizen's Assembly on Electoral Reform and played a role in the assembly's final report.

Other members of Region 5 participated on a variety of branch committees in the past year, such as the JUSTIN User Group and the Litigation Management Committee.

Each of the region's offices are of a stand-alone nature and their past year activities are described individually.

Fort Nelson is the region's most northern Crown counsel office. Located 1614 kilometres from Vancouver, it encompasses Fort Nelson and a satellite circuit —

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Region 5 *continued...*

the Northern Circuit, and the remote communities of Atlin (which is 973 kilometres from Fort Nelson), Good Hope Lake and Lower Post.

Fort Nelson is a rapidly growing community based upon an expanding resource sector. Urban development has created a residential housing climate that has seen new housing being offered at prices similar to Victoria.

The Fort Nelson office is staffed by one Crown counsel and one support person.

The Provincial Court is served by judges primarily based in Fort St. John and Dawson Creek. Supreme Court matters are usually traversed to Fort St. John for trial, although on occasion the Supreme Court has sat in Fort Nelson.

During the past year, the Fort Nelson office has been extremely active with wide-ranging prosecutions. A number of serious spousal assault cases were concluded resulting in significant jail terms for the offenders. These matters, in measure because of this office's relative proximity to the Yukon, are now routinely quoted in that neighbouring jurisdiction.

The office has also been active in promoting concepts of restorative justice in the Fort Nelson area, particularly with the Fort Nelson First Nations and most recently the Taku River Tlingit.

Because of the very junior nature of the RCMP members assigned to Fort Nelson and its satellite jurisdictions, the Crown regularly meets with the members to enhance their knowledge of the law, including such areas as impaired driving and bail. In addition, Administrative Crown Counsel Barry Nordin attends the monthly meetings of Healthy Fort Nelson and Action North, a community-based crime prevention society, to discuss justice issues. In the past year, Barry took part in a town council meeting to discuss criminal justice and followed up with an appearance on an open line radio program, along with the mayor and the local RCMP staff sergeant.

Region 5
Regional Crown Counsel
Oleh S. Kuzma, QC

Fort St. John, the "energetic city," is located in the centre of the oil and gas industry in northwestern British Columbia and like its distant northern neighbour, Fort Nelson, is experiencing boom times, with the corresponding population explosion, leading to an expanding and ever-increasing court load.

Although Fort St. John is the centre of Crown counsel operations, Hudson's Hope, a small community located in the vicinity of the Bennett Dam, is the site of Provincial Court sittings on a quarterly basis and served by the Fort St. John office.

In light of the heavy caseload of the Fort St. John office, the last year has seen an increase in complement for both Crown counsel and support staff, from two to three each.

The courts are served by a resident Provincial Court judge, augmented by visiting Provincial Court judges. The community has regular Supreme Court sittings with a visiting justice.

The legal community also saw the appointment of a new Provincial Court judge with deep roots in the area.

Dawson Creek is the remaining member of the Peace/Northeast Sub-Region and is located an hour south of Fort St. John, at the start of the Alaska Highway. Historically more agricultural-based, Dawson Creek is becoming the scene of increasing oil and gas development.

The Dawson Creek Crown office serves the communities of Chetwynd and Tumbler Ridge as well, and is composed of three Crown counsel and four support persons.

Dawson Creek is served by one resident Provincial Court judge (a former regional Crown counsel) with assistance from visiting Provincial Court judges, and is the site of regular Supreme Court sittings.

Although all efforts of the Dawson Creek office are deserving of acknowledgment, in a specific sense, a murder prosecution involving a dismemberment of the victim that resulted in the conviction of two accused is most noteworthy. The prosecution team was composed of a senior Crown from Dawson Creek and assisted by a junior Crown from Quesnel, typifying the co-operative approach of this region.

Community outreach activities include the teaching of criminology at the community college by Administrative Crown Counsel William Jackson.

Williams Lake is the southernmost Crown counsel office in Region 5 and is an area founded upon ranching and forestry, as exemplified by the annual Williams Lake Stampede.

In addition to Williams Lake, the office serves court locations in the communities of 100 Mile House and Anahim Lake, a distance of about 400 kilometres from Williams Lake, and is staffed by four Crown counsel and three support persons.

In this area, there are two resident Provincial Court judges (one a former environmental Crown counsel from this region) and regular Supreme Court sittings.

In terms of personnel, the departure of two long-time Crown counsel facilitated the recruitment of two young Crown counsel to ensure, it is hoped, the future of this important office in the Cariboo.

Quesnel, in the centre of the historic Cariboo Gold Rush and close to Barkerville, is the only office within Region 5 that does not have a satellite court location. Although it is located midway between Prince George and Williams Lake, it is considered part of the Cariboo Sub-Region.

The Quesnel office is staffed with two Crown counsel and two support staff.

A Provincial Court judge is resident in Quesnel and a Supreme Court justice regularly presides in the location.

The office was the centre of transition this year with the appointment of the former administrative Crown counsel to the Provincial Court. Fortunately, the region was able to appoint an experienced Crown counsel from the Williams Lake office to the administrative Crown counsel position, allowing for a smooth transition.

Smithers, gateway to the northwest section of the province, is located on Highway 16 and surrounded by an outdoor paradise and magnificent views. The area is agriculture and forestry intensive, with an expanding tourism sector.

The Smithers office also serves the communities of Burns Lake, Houston and New Hazelton, which contribute significantly to the caseload and involve a great deal of travel. It is staffed by five Crown counsel, including an environmental Crown, and four support persons.

Smithers is the home for two resident Provincial Court judges and is regularly served by visiting Supreme Court justices.

During the past year, the Smithers office was able to move into renovated facilities within the law courts, improving working conditions and staff efficiency in this active office.

With regard to notable prosecutorial efforts, counsel from the Smithers office conducted a rehearing of a dangerous offender application, which ultimately resulted in an long-term offender designation.

In the realm of public outreach and education, Navi Gill is a part-time instructor at the Northwest Community College criminology program, and also discusses law and justice programs in the local schools on a regular basis. Navi arranged, with the Honourable Judge Thomas Gove, a public forum on the principles of sentencing in the Smithers courthouse. Acting Administrative Crown Counsel Christine Birnie also guest-lectured at the high school Law 12 class.

Terrace occupies the central position within the Northwest Sub-Region and has the perfect blend of the interior

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Region 5 *continued...*

climate of Smithers to the east and the maritime climate of Prince Rupert to the west. Although the economic conditions in the community have suffered during recent years, there is hope a revival is on the horizon with developments in Prince Rupert and with the local forestry sector.

The Terrace office also serves Kitimat as well as a circuit that includes Dease Lake (located 583 kilometres from Terrace) and Stewart. It is staffed with four Crown counsel and four support staff.

Terrace is served by a resident Provincial Court judge and regularly assisted by Provincial Court judges from Prince Rupert and Smithers. The Supreme Court sits on a regular basis with a visiting justice presiding.

The Terrace office, in an effort to enhance their good practices, and with the co-operation of Court Services, sheriffs, judiciary and defence bar, created a new system to deal with in custodies. The improved arrangements have reduced the number of inquiries to Crown counsel and increased overall efficiency.

In a prosecutorial sense, a rehearing of dangerous offender application was concluded in Terrace, resulting in an long-term offender finding.

Administrative Crown Counsel Paul Kirk notes that community outreach activities in the past year include alternating Crown counsel for guest-lecturing at the local high school's law class, as well as Paul's participation on a justice issues panel at Northwest Community College, and guest-lectures at the courthouse to college students and at the local RCMP detachment.

Prince Rupert on sunny days is the gem of Region 5, blessed with the Pacific on one side and surrounded by lush green hills on the other. It is a community just emerging from an economic downturn with the recent announcement of the expansion of the Prince Rupert container port, which is anticipated to revitalize the area in combination with the traditional timber and fishing industries.

Prince Rupert is also blessed with a courthouse designated as a historic building, providing accommodation for five Crown counsel, including the major crime prosecutor for the northwest, and four support staff. The office serves the Queen Charlotte Islands in addition to Prince Rupert.

The community is home to two resident Provincial Court judges as well as an assigned Supreme Court justice.

The prosecutorial effort within this Crown counsel office during this fiscal year was supplemented with the frequent assistance of the major crime prosecutor assigned to the northwest, while the region recruited for a vacant Crown position. The coming fiscal year, with the retention of a fourth Crown, and the return of the office to its full complement, will undoubtedly create a less "harried" environment for those on the coast.

The Prince Rupert office is endeavouring to create an enhanced atmosphere for the use of alternative measures within the community.

A noteworthy prosecution in the past year is the conclusion of a second-degree murder prosecution, arising from the death of an infant.

This small component of prosecutors are also involved in community outreach activities. Administrative Crown Counsel Julian Dudley presented twice at the Justice Forum in Lax Kw'Alaams (Port Simpson) and, with Claire Ducluzeau, at RCMP Training Day on the topic of sexual assault. Chris Beattie participated at the Gladue and Community Justice Forum in New Aiyansh and, with Claire, in a public meeting in Masset about Law Foundation project proposals. Chris, Claire and Julian have also guest-lectured for the criminology class at Northwest Community College. In addition, students from the college criminology course "shadowed" Claire and Julian around the courthouse, and discussed the function and responsibilities of Crown counsel.

It should be noted Prince Rupert is the home to one of the most senior Crown in the B.C., Major Crimes Prosecutor Michael Fulmer, who has served with distinction for 31 years and was recently honoured at the 2005 Crown Counsel Professional Development Conference.

Vanderhoof is located in an agricultural and forestry-based area. The Vanderhoof Crown office serves the neighbouring communities of Fort St. James and Fraser Lake. The office is staffed by one Crown counsel, with regular assistance from the Prince George Crown counsel office, and two support persons.

The Provincial Court is presided over by a judge resident in Prince George and all Supreme Court matters are traversed to Prince George for trial.

The Vanderhoof office, including its circuit locations, assumed carriage during the past fiscal year of a number of homicides, which remain before the court.

Administrative Crown Counsel James Swales is an active member of the Vanderhoof Community Justice Forum and founding member of the Tlazten Nations Community Justice Committee. James also guest-lectures at the local high school and at the Vanderhoof Campus of the College of New Caledonia.

Prince George is the largest Crown counsel office in Region 5, located in a city that is generally referred to as the northern capital of B.C. It is the service centre for the majority of outlying communities in the north and home to the University of Northern B.C., as well as an administrative centre for many provincial government agencies.

The office occupies the newest law courts in the north (1997) and is staffed with 15 Crown counsel and 12 support staff, including an en-vironmental Crown. The Prince George Crown office also serves MacKenzie, Valemount, McBride and a small community, Tsay Keh, located in the Rocky Mountain trench.

The Provincial Court Bench is composed of six judges resident in Prince George and a Supreme Court Bench of three resident justices and a resident master.

Prince George commenced the new fiscal year with the appointment of a new administrative Crown counsel.

Regarding public education, David Grabavac teaches criminal law in the criminology program at the College of New Caledonia, presents to a school group through the Law Courts Legal Education Society and guest-lectures for secondary school law classes.

The *Regional Crown Counsel Office* is located in Prince George as well and is composed of the regional Crown counsel, two deputy regional Crown counsel, the manager of administrative services and two support staff.

CRIMINAL APPEALS & SPECIAL PROSECUTIONS

Criminal Appeals and Special Prosecutions (CASP) has a diverse mandate, providing prosecutorial services in the following areas: all indictable appeals to the British Columbia Court of Appeal and Supreme Court of Canada; commercial crime prosecutions; health, welfare and ICBC fraud prosecutions; organized crime and gang prosecutions; *Workers' Compensation Act* prosecutions plus *Criminal Code* prosecutions arising from workplace accidents; and proceeds of crime prosecutions. In addition, CASP provides province-wide service in the following areas: co-ordination of professional development for Crown counsel and internal legal educational programs, unsolved homicides, and auto theft. CASP's operations are located in Vancouver except for two appellate counsel who service the Court of Appeal from Victoria.

The two largest prosecutions to be co-ordinated from CASP in fiscal 04/05 are the Air India prosecution *(R. v. Malik and Bagri)* and the Eron Mortgage prosecution *(R. v. Slobogian and Biller)*. The Air India prosecution was led, with distinction, by Robert Wright, QC. The Air India team was a Finalist Award Recipient in the Innovation Category for the Premier's Award in 2004 and the team won the

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Criminal Appeals & Special Prosecutions *continued...*

International Association of Prosecutors Special Award, which will be presented in Copenhagen in August 2005. The Eron Mortgage prosecution was conducted by a talented group of commercial crime prosecutors, led with industry and skill by David Jardine.

Criminal Appeals & Special Prosecutions Acting Director Greg Fitch

Crown counsel in CASP give freely of their time to activities related to the legal profession. Two CASP counsel, Joyce DeWitt-Van Oosten and Laura Ford, are sessional instructors in the Faculty of Law at the University of Victoria. CASP counsel Mary Ainslie is an adjunct professor in the Faculty of Law at the University of British Columbia. CASP counsel regularly give of their time to prepare law school moot court teams for competition, and they participate in continuing legal education seminars and lecture to law students at the Bar Admission Course. CASP represents the branch yearly on the Faculty of the National Criminal Law Program.

Each year, CASP Crown counsel speak to a group of university students about law as a career, as well as give of their time to Law Week activities.

In February 2005, CASP Crown counsel were instrumental in co-ordinating a two-day conference in Richmond entitled, "Community Protection is Paramount: Coordinating the System's Response to the High-Risk Offender." The conference attracted over 300 people; including 85 representatives from the community on the second day. This conference was supported by the Criminal Justice Branch, and Deputy Attorney General Allan Seckel, QC, was a keynote speaker.

Acting CASP Director Greg Fitch is the Vice-Chair of the National Joint Committee (NJC) of Senior Criminal Justice Officials (Pacific Region). NJC was one of the hosts of the February conference. NJC is an organization financed by the Federal Department of Public Safety and Emergency Preparedness Canada. The mandate of NJC is to promote effective partnerships to improve the administration of criminal justice.

Also, in February 2005, Greg Fitch spoke to the Federation of Canadian Municipalities on how the system works — in its policing, prosecution and correctional aspects — to manage the high-risk offender and thereby enhance community safety. CASP's Cal Deedman continued professional development work in 2004 – 05 with the Law Courts Education Society, towards the education of Guatemalan police officers and prosecutors on crime scene examination. Cal is a recipient of the Ted Hughes award for Access to Justice in recognition of his outstanding contribution to the success of this project.

Starting on April 1, 2005, six prosecutors were dedicated to a newly formed organized crime unit based in CASP. The prosecutors of the Organized Crime Unit will provide early legal advice to organized crime investigators, as well as conduct charge approvals and prosecutions against crime organizations.

branch developments & human resources

Human Resources Plan

As a deliverable of the branch Performance Plan, the Human Resources Subcommittee finalized the Human Resources Plan in July 2004.

The Human Resources Plan outlines the goals and objectives of the Criminal Justice Branch for addressing the challenges and pressures confronted by our staff as a result of the many prosecutorial environmental factors highlighted in this annual report. The plan strives to create a cultural environment within the branch that supports the provision of an effective and efficient prosecutorial service in British Columbia.

The Human Resources Plan provides a comprehensive blueprint for the development and implementation of programs and strategies. The plan identifies eight goals and objectives. They are:

1. **Recognition:** a work environment in which employees feel appreciated and acknowledged for their contributions;
2. **Safe and positive work environment**: promote a work environment in which employees feel safe and productive;
3. **Employee management relations:** a work environment in which all members of the branch understand how to deal effectively with employee-management relations issues;
4. **Employee requirements to better perform their jobs:** employees have the necessary tools to deliver a high level of performance in their jobs;
5. **Recruitment and selection:** a recruiting and selection process that enables the timely hiring of the best talent;
6. **Career planning:** a workplace environment in which employees understand their career options and expectations, and where employees understand the skill and experience requirements to perform at a particular level and the opportunities to develop;
7. **Succession planning:** the branch is able to staff key positions quickly and effectively; and
8. **Performance management and development:** a work environment with a performance and development culture that supports the achievement of the branch Business Plan (formerly called the Performance Plan.)

The Human Resources Plan is a framework for the human resource management priorities of the branch. It signifies that the people of the Criminal Justice Branch are its strength and most valuable resource.

The Human Resources Plan will be monitored and realigned on an ongoing basis to ensure it continues to reflect the needs of our employees and the goals and objectives of the branch.

BRANCH DEVELOPMENTS & HUMAN RESOURCES

Professional Development

There have been plenty of developments within the realm of Professional Development at the Criminal Justice Branch during fiscal 2004 – 05.

Halfway through the fiscal year, Cal Deedman was appointed to succeed Ellen Gerber as Professional Development Coordinator for a term of three years. Administrative Crown Counsel Laura Ford (Duncan) was seconded to assist Cal.

Along with the new appointments came changes in organizational structure and reporting responsibilities. Professional Development was no longer a part of headquarters. Previously, it had been with the Vancouver-based headquarters contingent, which was moved during 2004 from the Criminal Justice Branch (to become the Criminal Justice Reform Office, reporting to the Deputy Attorney General). Instead, Professional Development became a separate unit with the coordinator reporting to the Acting Director of Criminal Appeals and Special Prosecutions for day-to-day operations and to the Branch Management Committee at its regular meetings.

In a memo announcing these changes, Assistant Deputy Attorney General Robert W. G. Gillen, QC, indicated this signified a new vision for learning in the branch and additional resources would be allocated to Professional Development.

The most pressing task facing the new professional development team was to organize an Administrative Crown Conference on short notice. The conference was held at the Fairmont Hotel at the Vancouver International Airport on November 4 and 5, 2004.

Designed to be of interest to all attendees, the program featured a mix of content with a balance between legal topics and those related to promoting individual well-being. Evaluations were very positive.

The branch is committed to supporting its employees on a personal and psychological level as well as providing them with proper legal training. To that end, all future Crown conferences will include a wellness component. This recognizes the stressful aspects of being a Crown counsel, a job that poses many personal challenges.

Photographs are from the New Crown Counsel Basic Training Course.

(Right) Constable Kevin Davies of the Chilliwack RCMP Detachment shows new Crown Counsel Jari Sokkanen what it feels like to be detained for impaired driving, handcuffed and placed in the back of a police car.

(Right) Jari Sokkanen is fingerprinted by Constable Davies.

(Far right) Inspector Brian Andrews, officer in charge of the RCMP Forensic Identification Services (FIS) for the Pacific Region, explains the organization of FIS and the training received by its members.

During the first six months, two significant innovations were introduced in Professional Development. First, an integrated police and Crown training program was initiated. Second, a one-week basic training course for new Crown counsel was introduced.

The integrated police and Crown training takes place at the RCMP Pacific Region Training Centre in Chilliwack. Its initiation was in December 2004, when the RCMP kindly offered two seats in a two-week Major Crime Investigative Techniques Course (MCIT) to Crown counsel.

The idea behind the joint training is to encourage police and prosecutors to learn from one another and, as a result, to work together more effectively. The first course was experimental and it proved to be a success. The attending Crown found it to be a valuable learning experience and the RCMP found that having input from a prosecutor's perspective added value to the course for their members.

Integrated Crown and police training is now well-established. Two Crown counsel have attended each of the following courses: Investigative Interviewing (January 2005); MCIT (February 2005); and MCIT (March 2005). Crown are invited to five courses scheduled to take place from May to July 2005. These will include a Sexual Assault Investigator's Course, which is new to Crown.

The New Crown Counsel Basic Training Course was introduced at the RCMP Pacific Region Training Centre in Chilliwack, from March 14 to 18, 2005. Fifteen new Crown counsel from across the province attended. The course gave participants a first-hand look at police procedures and investigative techniques.

Police officers played roles in two scenarios: an impaired driving case, and a breaking and entering case. The students observed how a suspected impaired driver is pulled over and investigated at the scene, then booked-in at the police detachment.

continued...

Constable Davies leads Jari Sokkanen through the prisoners' entrance of the Chilliwack RCMP Detachment, flanked by Course Coordinator Cal Deedman and Crown Instructor Anne Clark.

Evelyn Pederson, manager of the Vancouver Police Department Forensic Firearms and Tool Mark Unit, explains the parts and the workings of a semi-automatic pistol with the aid of a diagram and an imitation firearm.

New Crown (left to right) Denise Payne, Marlene Mann, Kim Wendel and Peter Ng, observe as RCMP Bloodstain Pattern Analyst, Staff Sergeant Jack Mellis, demonstrates the distinctive shape of blood drops caused by passive bleeding.

Professional Development
continued...

The students also observed how police respond to a report of breaking and entering, how a police dog tracks a suspect and how the crime scene is processed. The students participated in a witness preparation and mock trial exercise based on the two scenarios.

In addition to the practical hands-on component of the course, there were lectures on fingerprints, crime scene examination, DNA evidence, firearms and tool marks, and bloodstain pattern analysis. The course objective is to help the students be more effective in their Crown counsel work by giving them a better understanding of police work. The new Crown found the training very useful.

The New Crown Basic Training Course, with its focus on police procedures and forensics, is designed to complement another more law-intensive training session, the New Crown Conference, which takes place just before the annual Professional Development Conference. Training at the conference focuses on more traditional subjects like file management, plea negotiations, bail hearings, sentencing and the role of the Crown, particularly as it relates to proceedings conducted in Provincial Court. The third day is devoted to advocacy training.

Course Coordinator Cal Deedman thanks RCMP Constable Mike Zinck and Police Service Dog "Justice" for demonstrating how a suspect is tracked and apprehended.

The professional development team is working towards developing a complete introductory program for new Crown. It will include an orientation package, a mentoring component and additional advocacy training.

The next noteworthy date on Crown's professional development calendar is the annual Professional Development Conference, which is held every spring and this year in May 2005. We are honoured to have as a keynote speaker the retired Supreme Court of Canada Justice Claire L'Heureux-Dubé. After the keynote address, there will be a plenary session entitled *Wrongful Convictions: Lessons Learned*. This session demonstrates the branch's commitment to sensitizing Crown to the factors that can lead to miscarriages of justice, which devastate the lives of those who are wrongfully convicted and undermine public confidence in the justice system.

BRANCH DEVELOPMENTS & HUMAN RESOURCES

Office Managers Conference

February 21 – 23, 2005, marked the seventh annual Office Managers' Conference, which was held in Kelowna in the same location of the first conference in 1999. The Management Services Committee is responsible for organizing and hosting this well-attended event which gives branch office managers the opportunity to get together for training and information-sharing.

Regional Crown Counsel Brad Chapman opened the conference and guest speakers from both within and outside the branch presented on various topics, including: a branch performance plan update, business continuity planning, violence prevention, technology initiatives, employee recognition and conflict resolution. Feedback received on the conference was extremely positive.

This year, in addition to the Office Managers' Conference, regional support staff conferences were held also, providing an opportunity for the administrative staff to get together with their colleagues and senior management for operational training and updates on branch initiatives and priorities.

Headquarter Changes

Earlier in 2004, the Deputy Attorney General created a new office dedicated to policy work and law reform in criminal justice. The Criminal Justice Branch agreed that the Crown lawyers in Elisabeth Burgess' group, who were a part of headquarters but based in Vancouver, would become the Criminal Justice Reform Office.

The Criminal Justice Reform Office is the centre established by the Ministry of Attorney General, with ties to the Ministry of Public Safety and Solicitor General, to lead criminal justice reform and develop innovative solutions to criminal justice challenges. Created in June 2004 and reporting directly to the Deputy Attorney General, the Criminal Justice Reform Office maintains working relationships with the public; federal and provincial criminal justice system representatives; other ministries and branches; police, judiciary; and other justice system partners and users.

The Criminal Justice Branch continues with its commitment to law reform through Assistant Deputy Attorney General Robert W. G. Gillen's Heads of Prosecution work and in closely collaborating with the Criminal Justice Reform Office.

Administrative Support Staff Conference - Region 1

Support staff conferences were held in the various regions throughout the province this year. One of these localized conferences was in Region 1.

Region 1 held its Administrative Support Staff Conference on March 5, 2005, in Victoria at the Empress Hotel. The last conference for Region 1 support staff was held in 1997. The first conference for the region was held in October 1991 in Nanaimo.

(from left) Melanie Baylis, Debora Beiersdorfer and Laurie Page from Victoria Crown Counsel Office, following an enjoyable lunch at the Empress during the Region 1 Administrative Support Staff Conference.

The panel (above centre) listens to a question and the audience listens to presenters intently (above). Panel members, from left: Administrative Crown Counsel Steve Salmond, Charge Approval Legal Secretary Alanna Wood, Major Crime Prosecutor Derrill Prevett and Deputy Regional Crown Counsel Christine Lowe.

Approximately 60 delegates, including staff from headquarters, attended the one-day conference. Conference agenda topics included: Panel Discussion and Question Period on Sections 810.1 and 810.2 of the Criminal Code, Sex Offender Information Registration Act (SOIRA), and Conditional Sentence Orders; Corrections in Canada and B.C.; Introduction to Legal Citations; Computer Technology Update; and Stress Management Workshop.

Guest speakers included staff from the senior parole office from Correctional Service of Canada; a probation officer from the B.C. Corrections Branch; a doctor and nurse from the Public Service Agency (Government Employees' Health Services); the director of library services from the Legal Services Branch; and representatives from the Criminal Justice Branch.

Feedback following the conference was very positive. Many participants from Vancouver Island and Powell River met in-person for the first time.

Future conferences will be held in the region to benefit administrative support staff and enhance their training and developmental needs.

Staff Appreciation and Awards

The Criminal Justice Branch leads the way when it comes to Ministry of Attorney General employees being recognized for their valuable contributions to the public service. All regions made excellent use of the Staff Appreciation Awards Program for the 2004 – 05 fiscal year.

Our employees are our most valuable asset, regularly going "above and beyond" in their contributions to the workplace and to the community.

Awards were presented also in recognition of participation in special projects, such as the 2004 Crown Counsel Conference and JUSTIN. In December 2004, the JUSTIN staff user group and the JUSTIN lawyers user group were acknowledged by the Branch Management Committee for their invaluable direction, feedback and creative ideas in making JUSTIN as effective as possible for all of its users.

It is apparent the staff of Criminal Justice receive many accolades for their work as well as for commitment to their communities, and that these are much too numerous to elicit and list. Some of this recognition is noted in the regional reports, located earlier in this annual report. A few more are described here.

In Powell River, the Sliammon community presented a print of "The Four Watchmen" to John Sinclair in recognition for his ongoing support for the Community Justice Circles Program. John is the longest non-aboriginal member of the Sliammon Native Justice Committee. The Four Watchmen are the traditional protectors and guardians of the Tla'Amin community.

Director of Legal Services Geoffrey Gaul was promoted to the rank of Lieutenant Commander in the Royal Canadian Navy at the end of July 2004.

In 2004, Long Service Awards were presented to these Criminal Justice Branch employees for 25 years of service: Ellen Gerber; Robert W. G. Gillen, QC; Marg Johnson; Paige Johnstone; Glenn Kelt; Marion Paruk; Michael Petrie and Lee Porteous.

Powell River Administrative Crown Counsel John A. Sinclair and RCMP Officer Larry Misner with Justice Worker Adeline August, following the presentation of "The Four Watchmen" prints in recognition of their support for the Community Justice Circles Program by the Tla'Amin community.

2004 – 05 Judicial & Queen's Counsel Appointments

In 2004 – 05, the Criminal Justice Branch's Henry (Hank) Reimer, Wendy Dawson, and former staff member Elisabeth Burgess were appointed Queen's Counsel.

Ronald James Webb, Michael Alexander Gray and Michael Bruce Hicks were appointed to the Provincial Court Bench.

Premier's Awards: Air India Project Team

The Air India case is cited as one of the most complex, high-profile international prosecutions in Canadian history. Every facet of the case presented extraordinary logistical challenges. Because of their many innovations in this case, the Air India Project Team were honoured as finalists in the Innovation category at the Premier's Awards on November 30, 2004.

Some of the areas of innovation accomplished by the team include:

- developing new ways of managing hundreds of thousands of documents and images, along with unique arrangements for disclosing evidence to the defence through electronic disclosure;
- developing new technology for the instant retrieval of evidence from databases onto monitors in the courtroom, along with the technology for witnesses to use a computer touch-screen, resulting in dramatic time and cost-saving measures;
- creating unprecedented partnerships between Crown counsel and national and international police and other agencies;
- unparalled security measures;
- developing an integrated project management structure across several branches within the Ministry of Attorney General;
- using real time electronic court reporting for instantaneous transmission of transcripts to the judge's and lawyers' computers where the transcripts can then be annotated, indexed and searched;
- instituting unique administrative cooperation between the Crown and defence counsel;
- implementing a discrete, unified budgeting process, including a provincial/federal funding agreement unique for a criminal case;
- shifting the trial venue for particular aspects of the trial to a warehouse annex where Air India Flight 182 had been partially reconstructed; and
- developing and implementing special victim services, such as a trained, multi-function victim services team; a password-protected Web site; newsletter, e-mail and phone information-sharing; victim/witness briefing meetings in Vancouver and other locations; and a safe haven area and travel to the trial for family members.

48 Articling Student Program

Seven articling students were employed at the offices of the Criminal Justice Branch during the period of May 2004 to March 2005. Many of the students articled at both headquarters and the regions.

They were: Natalie Barnes, Peter Ameerali, Deanna Billo, Claudia Chender, Marie Morrison, Devinder Sidhu and Karrie Wolfe.

Richard John Achtem

On November 8, 2004, Crown counsel and the public suddenly lost a good counsel and a trusted friend. Richard Achtem was born on July 30, 1948, in Ottawa and moved to Edmonton later that same year. As a young man he moved with his family to British Columbia. He attended the University of British Columbia and graduated with a Bachelor of Arts in 1970, followed by a law degree in 1973.

Richard J. Achtem

In 1973, Richard articled under the tutelage of the late Alan Ainsworth. He also learned the finer points of advocacy at semi-private sessions at the Georgia Hotel with the late Charles MacLean. These were lessons well learned as Richard soon opened a law practice with the now Honourable Judge L. Wayne Smith. After a few years, Wayne Smith was lured to the Crown counsel office in Victoria. Richard joined practice with Thomas Kendall and Alexander Shorten to form Kendall, Shorten and Achtem.

In 1981, Richard followed Wayne's footsteps to Victoria Crown Counsel where he achieved the position of Acting Regional Crown. As a result of the sudden death of his father in 1986, Richard regretfully left his permanent position as Crown to take over the family business. However, from his office on Powell Street in Vancouver, Richard still managed to continue his legal career by doing ad hoc work for the Crown in Victoria and the Fraser Valley and even some defence work.

In his younger years, Richard was an excellent squash and racquetball player. In later life, he was a skilled gourmand. He was always a terrible golfer. However, with ready wit, a charming smile, and an infectious personality no one ever minded how he played the game.

Shortly before his death, Richard returned to the work he loved and was appointed administrative Crown counsel in Nelson. In the short time that he was there, Richard became a trusted and beloved colleague.

Richard's family business and legal career took him all over the province. He leaves behind him a legacy of wonderful stories, loyal friends, colleagues, and a loving partner to mourn him. Richard will be missed by hundreds of people over hundreds of miles.

Allan Roth Adlem

Al was born January 10, 1941, in Gull Lake, Saskatchewan. After a stint in Naranda, Quebec, Al's family returned to Gull Lake where Al graduated from high school in 1958. Then, at the age of 20, Al joined the RCMP.

After training in the RCMP, Al was transferred to British Columbia. He served at the Burnaby Detachment, New Westminster, Patullo Bridge Highway Patrol and Surrey Detachment. While in Burnaby in the fall of 1962, Al met his future wife, Sonia. In the summer of 1964, he sought permission to marry her and was promptly transferred to Vanderhoof.

Sonia and Al were married in October 1964. They lived in Vanderhoof until April 1966 when he decided to leave the RCMP and further his formal education at Simon Fraser University where he eventually obtained his Bachelor of Education degree.

continued...

Al Adlem *continued...*

In September 1970, Al rejoined the RCMP and was attached to the Commercial Crime Section. A year later, Al was given the opportunity to attend law school while a member of the RCMP. He attended UBC Law School and graduated in May 1974. Al continued to work in the RCMP Commercial Criminal Section until September 1977 when he resigned from the RCMP and commenced work at the law firm of Thompson McConnell. He was called to the bar in 1978.

Allan R. Adlem

On August 15, 1982, Al left Thompson McConnell and joined the Criminal Justice Branch as Crown counsel.

Al worked in many offices in the Fraser Region between 1982 and January 2005. Al was the administrative Crown counsel in Langley in the 1980s, and in Delta in the late 1980s and early 1990s. Al was also the administrative Crown in Surrey for charge approval matters from 2000 onwards.

Al was a much beloved colleague in Region 3. He was never too busy to help out the people he worked with nor was he too busy to help members of the public. He had an exuberant zest for life and for having fun. He was a notorious practical joker with an infectious sense of humour. All those who worked with Al will never forget the way he would transform an office into a place where people enjoyed being at work, and relied on one another for support, friendship and good humour.

Al was also a great traveller. He and his wife Sonia enjoyed many trips to faraway lands. Al enjoyed hiking too. He and Wayne Skolrood hiked the Denali Pass in the Yukon recently. Al was an avid walker as well. Not a day passed that Al did not walk the streets around the courthouse in Surrey at lunchtime. Over the years, Al gathered a gang of colleagues who joined him on his daily lunchtime walks, who looked forward to his words of wisdom and good humour.

Al had a heart attack January 31, 2005. He passed away days later on February 4, having just turned 64. The flags flew at half-mast at Surrey Provincial Court for the week after Al's

Rick Wallensteen

Former Crown counsel, colleague and friend Rick Wallensteen was alone behind the wheel when his vehicle overturned on the Trans Canada Highway near Duncan on October 17, 2004. He suffered serious head injuries and never regained consciousness. Rick died October 22, leaving his wife Ruth and two teenage sons. Rick was 53 years old.

Rick was born in Chilliwack, raised in North Vancouver and went to law school at UBC. Called to the bar in 1978, he began practising law in Port Alberni.

In Nanaimo, Rick first made his mark as a Crown prosecutor, beginning in May 1986. Known for his thoroughness and attention to detail, he gained a reputation as a prosecutor who could take on and win high-profile and difficult cases.

Rick Wallensteen

Rick had also served as coroner's counsel at inquests. He would provide advice to the coroner while facing down a bank of lawyers representing individuals, government ministries and agencies and corporate interests.

Among his many trials as a Crown, Rick Wallensteen prosecuted a number of

murder cases: the so-called Karaoke killing case, the Painters Lodge arson trial and a Parksville day care operator who was molesting children in his care.

In April 1997, Rick Wallensteen left the Crown and went into private practice with the law firm King Sutton. He quickly established his reputation as a defence lawyer, again taking on high-profile and difficult cases.

Some police investigators expressed concern at having to face such a formidable defence lawyer. But Staff Sergeant Randy Munro, with the Nanaimo RCMP, said Rick Wallensteen continued to be held in high esteem by police. "He had a broad perspective; he saw both sides and was fair on both sides," said Munro.

Deputy regional Crown counsel Glenn Kelt says Rick combined the best as a person and a lawyer. "Rick was a great guy, he had it all; he had a great family, he was a great lawyer, he was well-liked and was well-respected in his profession. He left a big hole when he left our office, and now he's left a big hole in the legal community."

prosecutorial services

Reports to Crown Counsel Received from Police

During 2004/05, the Criminal Justice Branch received 74,294 Reports to Crown Counsel (RCCs) for review. One RCC will accuse one or more persons in relation to one or more offences.

In 2004 – 05, there was an average of 1.07 accused persons per RCC submitted to the branch. Adults comprised 90.2 per cent of the total accused persons, while youth made up 9.8 per cent of the total.

The charging decisions of the Criminal Justice Branch relate to *Criminal Code* offences and offences created by provincial legislation where the police refer the matter to Crown counsel rather than issuing a ticket. Offences under other federal legislation, such as the *Controlled Drugs and Substances Act*, are prosecuted by the federal government through the Department of Justice and are not included.

Total RCCs and Accused Received for Charge Assessment

		2001/02 (Estimate)	2002/03 (Actual)	2003/04 (Actual)	2004/05 (Actual)
RCCs received		76,660	76,874	73,292	74,294
# Accused per RCC		1.09	1.08	1.08	1.07
Accused	**Adults + Youth**	83,290	83,230	78,821	79,500
	Adults	71,126	71,345	70,198	71,713
	% Adults	85.4%	85.7%	89.1%	90.2%
	Youth	12,164	11,885	8,623	7,787
	%Youth	14.6%	14.3%	10.9%	9.8%

Figure 1 (Data Source: JUSTIN, April 14, 2005)

Note: Estimates for fiscal year 2001/02 were based on nine months of actual data for 2001 – 02, plus the actual data for the first quarter of the fiscal year 2002 – 03.

The branch operations statistical information in this report is based on data collected from the Justice Information System (JUSTIN).

Charge Assessment Decisions

If the criteria for approving a charge are met (there is a substantial likelihood of conviction and a prosecution is in the public interest), the Crown may then:

- approve charges;
- refer the matter to an alternative program (e.g. Alternative Measures) rather than institute formal court proceedings; or
- issue a formal warning rather than approve a charge (e.g. a caution letter).

If there is insufficient evidence to support charges or a prosecution is not in the public interest, Crown counsel will:

- refer the matter to the police for further investigation; or
- not approve charges (i.e. a no-charge decision).

It should be noted that at the time the Figure 2 diagram was created, some charge assessment decisions were pending because Crown counsel were in the process of making or recording the decision or had deferred the decision for some other reason.

CHARGE ASSESSMENT RESULTS
Number of People Suggested by Investigators for Charges

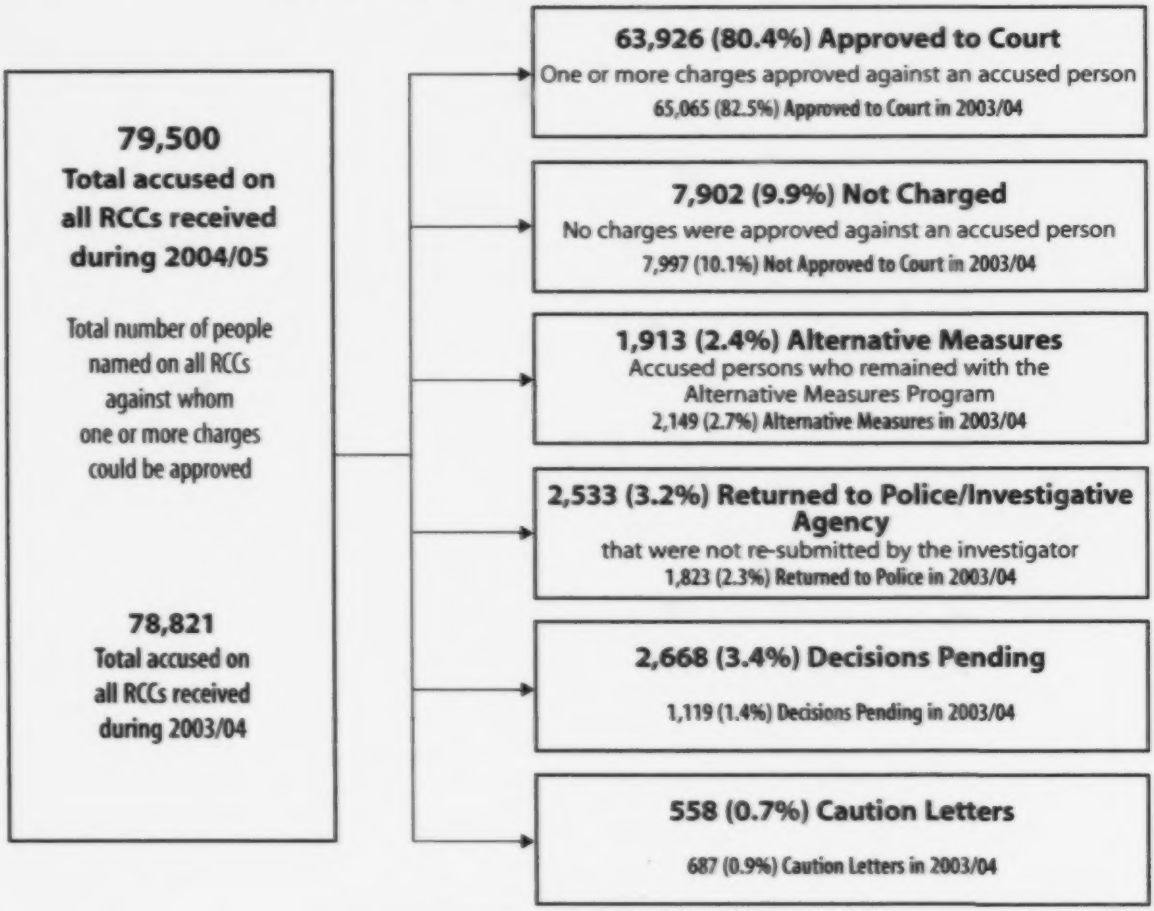
79,500
Total accused on all RCCs received during 2004/05
Total number of people named on all RCCs against whom one or more charges could be approved
78,821
Total accused on all RCCs received during 2003/04
63,926 (80.4%) Approved to Court
One or more charges approved against an accused person
65,065 (82.5%) Approved to Court in 2003/04
7,902 (9.9%) Not Charged
No charges were approved against an accused person
7,997 (10.1%) Not Approved to Court in 2003/04
1,913 (2.4%) Alternative Measures
Accused persons who remained with the Alternative Measures Program
2,149 (2.7%) Alternative Measures in 2003/04
2,533 (3.2%) Returned to Police/Investigative Agency
that were not re-submitted by the investigator
1,823 (2.3%) Returned to Police in 2003/04
2,668 (3.4%) Decisions Pending
1,119 (1.4%) Decisions Pending in 2003/04
558 (0.7%) Caution Letters
687 (0.9%) Caution Letters in 2003/04

Figure 2 (Data Source: JUSTIN, April 15, 2005)

Alternative Measures Referrals

During the year 2004 – 05, Crown counsel referred 3,446 accused persons (4.3 per cent of 79,500: the total number of accused persons named in all RCCs) for suitability assessments to Alternative Measures Programs.

Approximately 1,011 of the referrals (29 per cent) were not successful, resulting in a return to Crown counsel for a reconsideration of charges.

Of the total number of accused persons charge-assessed by Crown counsel in 2004 – 05, 2,435 (3.1 per cent) had their matters resolved through referral to Alternative Measures Programs.

Charge Assessment Results Data

For about a year, the numbers indicated in Figure 2 will change somewhat during the normal course of the branch's business. This is because there are pending charge assessment decisions at the time of reporting as well as some initial charge assessment decisions that are revisited when:

- the police or another investigating agency submits a supplemental report to Crown counsel with the results of further investigation;
- an accused person declines, is unsuitable for or does not comply with, Alternative Measures and the matter is returned to Crown counsel; or
- the defence counsel or the accused person requests the consideration of Alternative Measures after a charge is laid.

Accordingly, the statistics for 2004 – 05 cannot be considered final until the end of 2005 – 06 fiscal year. However, it is anticipated that any changes will not be significant enough to modify the relative percentages in each charge assessment decision result category.

CJB Statistical Information Conclusion

The use of JUSTIN provides the collection and analyses of data entered from every Crown counsel office and court location in the province concerning prosecutions in the province, except the Court of Appeal.

New and more efficient methods of extracting and analyzing the data are continually being developed to produce more reliable information that will assist the Criminal Justice Branch and its justice system partners to provide effective administration of the criminal justice system in British Columbia.

PROSECUTORIAL SERVICES

Organized Crime Unit

Organized Crime Unit Crown counsel will prosecute organized crime cases at trial and an OCU prosecutor will be assigned the responsibility of advising the police during the investigation. Other OCU Crown will be assigned the tasks of making charge approval decisions...

As of April 1, 2005, a core group of six prosecutors have been established in an organized crime unit within Criminal Appeals and Special Prosecutions (CASP).

The formation of the Organized Crime Unit (OCU) reflects a recognition of the need for early legal advice by Crown counsel to police during organized crime investigations, and to maintain a consistent approach through to the charge approval and trial stages of a case. The operation of the OCU recognizes the respective independent roles of the Crown and the police in prosecutions and investigations.

The legal advice provided by OCU prosecutors pertains to matters that could affect the admissibility of evidence and the likely outcome of a prosecution. The prosecutors handle Part VI authorizations, warrants and other applications, and will work with the proceeds of crime prosecutors for organized crime investigations.

OCU Crown counsel will prosecute organized crime cases at trial. An OCU prosecutor will be assigned the responsibility of advising the police during the investigation. Other OCU Crown will be assigned the tasks of making charge approval decisions in a timely manner and taking the case to trial.

The Organized Crime Unit is responsible for training prosecutors on organized crime-related and Part VI matters, and for proposing policy on organized crime and Part VI matters for Branch Management Committee approval.

During an organized crime investigation involving *Criminal Code* and *Controlled Drugs and Substances Act* offences, the Organized Crime Unit will liaise with the Department of Justice as required. Joint prosecutions will be considered in appropriate circumstances.

Significant Cases

This section outlines a handful of the significant and high-profile cases dealt with in the past year.

R. v. Malik and Bagri

On June 23, 1985, Air India Flight 182 exploded and crashed into the Atlantic Ocean off the coast of Ireland, killing all 329 people on board. The flight was in transit from Montreal to London, carrying a bomb in luggage that was loaded in Vancouver. Less than an hour earlier, a suitcase containing a bomb exploded in the airport in Narita, Japan, killing two baggage handlers and wounding four others.

A 19-year investigation was undertaken by the RCMP with the assistance of several police agencies. On October 27, 2000, Ripudaman Singh Malik and Ajaib Singh Bagri were jointly charged with multiple criminal offences in relation to the 1985 explosion of Air India Flight 182 off the coast of Ireland, the intended explosion of Air India Flight 301 and the explosion at the New Tokyo International Airport in Narita.

On June 5, 2001, Inderjit Singh Reyat was added as a third individual charged with offences related to the 1985 explosion of Air India Flight 182 and the intended explosion in 1985 of Air India Flight 301. Previously, Reyat had been charged and convicted of manslaughter in relation to the 1985 explosion at the New Tokyo International Airport in Narita, which resulted in the death of two people. He was tried in B.C. Supreme Court in 1991, convicted of multiple criminal offences, including manslaughter, and sentenced to 10 years in prison. The trial judge in that case found Reyat guilty of manslaughter because he had either fabricated or aided others in the fabrication of the bomb that exploded and killed the two men.

On February 10, 2003, Inderjit Singh Reyat pled guilty to manslaughter for his part in the explosion and crash of Air India Flight 182. In addition to the 15 years Reyat had already served in prison, either as a result of his awaiting trial and conviction for the Narita bombing or awaiting trial on the Flight 182 charges, he was sentenced to an additional five years in prison. Because the law in Canada holds as a rule that time in custody awaiting trial is generally credited on a "2 to 1" basis, and because Reyat had spent a total of five years in pre-trial custody, Reyat's actual sentence for his role in the bombing at Narita and the explosion of Air India Flight 182 amounts to 25 years in prison.

The trial of Ripudaman Singh Malik and Ajaib Singh Bagri spanned 19 months and 232 court days, with the close of case on December 3, 2004. The court rendered its decision on March 16, 2005, acquitting both accused of the offences. Although the Crown vigourously prosecuted the case, the Court ruled that it was not satisfied that the evidence proved beyond a reasonable doubt that the accused were guilty of the charges.

The prosecution's case was based almost entirely on testimony from certain key witnesses to whom the accused allegedly made incriminating admissions. The forensic evidence led by the Crown did not connect either of the accused to the criminal acts, although it did prove criminal offences had been committed and that the two bombs originated in Vancouver. The credibility of these witnesses was acknowledged by the Crown and defence alike to be fundamental to arriving at a verdict.

It has long been acknowledged that the Air India case is one of the most complex and lengthy police investigations and prosecutions in the history of the Canadian justice system.

Despite the verdict, to have conducted and completed a trial of this magnitude is a tremendous achievement on the part of the Criminal Justice Branch.

continued...

R. v. Malik and Bagri continued...

The Air India Project Team continues to be acknowledged for their numerous innovations and efficiencies plus their commitment and devotion to the striving for justice at substantial personal sacrifice and that of their families.

The RCMP have publicly announced they will continue to actively investigate these crimes until all avenues of the investigaion have been exhausted.

R. v. Slobogian & Biller

Between January 1993 and October 1997, Eron Mortgage Corporation was in the business of lending monies to borrowers who were typically developers of commercial real estate. In October 1997 Eron Mortgage Corporation ceased operations and more than 3,000 investors lost approximately $210 million — costing some their homes and retirement savings.

In February 1998 the RCMP began their investigation into the activities of Eron Mortgage Corporation. This led to President Brian Slobogian and Vice-President Francis Biller being charged on a 33-count direct indictment.

On May 20, 2004, the Crown filed a new direct indictment against Brian Slobogian and Frank Biller, which consolidated the original 33 charges into 14 counts under the *Criminal Code of Canada*. This consolidation streamlined the case towards a more effective and efficient prosecution.

The trial began on January 21, 2005, in what has been described as B.C.'s biggest-ever financial fiasco and one of the worst in Canadian history. There were 200 potential witnesses and about 160,000 documents to manage. The trial was expected to take up to year to prosecute.

Brian Slobogian entered guilty pleas to four counts of theft over $5000 and one count of fraud over $5000. On March 29, 2005, the Honourable Mr. Justice Fraser sentenced Brian Slobogian on each of the four counts of theft to a term of imprisonment of six years to be served concurrently; and on the one count of fraud to a term of imprisonment of three years to be served concurrently with the theft sentences.

On April 5, 2005, Frank Biller entered guilty pleas to four counts of fraud over $5000 and on count of theft over $5000. The sentencing hearing is scheduled to commence in May 2005 and is expected to last several weeks.

R. v. David William Ramsay

On March 13, 2003, the Crown filed a direct indictment charging David William Ramsay, a former judge of the Provincial Court of British Columbia, with nine sexual offences and one offence of breach of trust.

To ensure there was no real or perceived improper influence in the exercise of prosecutorial responsibilities, the branch appointed Dennis T.R. Murray, QC, a senior criminal lawyer in private practice, as the Special Prosecutor responsible for this case. Special Prosecutors are appointed under the *Crown Counsel Act* and their decisions are final, subject only to receiving written directions form the Attorney General, Deputy Attorney General or the Assistance Deputy Attorney General for the Criminal Justice Branch. In cases where written directions are issued, those directions must be made public by publishing them in the B.C. Gazette.

On May 3, 2004, Ramsay pleaded guilty to one count of sexual assault causing bodily harm to one girl, three counts of buying sex from three other girls under the age of 18 and one charge of breach of trust. On June 2, 2004, Ramsay was sentenced to seven years in jail by Associate Chief Justice Dohm despite a joint submission made by counsel for a sentence in the range of four to five years. Justice Dohm stated, "The accused used his office to elicit satisfaction of his perverted lust and to shield himself from its consequences... His callousness toward these young women and his violence... two of whom he discarded like one might discard a pair of old shoes,

justifies a sentence in the highest end of the range... One can hardly imagine a more infamous breach of trust."

R. v. Mark Damien Therrien

On October 4, 2004, the Crown opened its case before Supreme Court Justice A. W. MacKenzie sitting without a jury, involving five counts of first-degree murder against Mark Damien Therrien. Over the next two months, the Court heard evidence that on September 9, 1996, Therrien and Robert Moyes were parolees and residents at the Sumas Centre, a halfway house in Abbotsford. Moyes was hired to kill a 70-year-old drug dealer and Therrien was hired to assist in committing the murder. During the course of events a total of five individuals were murdered.

On February 4, 2005, Madam Justice MacKenzie found Therrien guilty of five counts of first-degree murder and sentenced him to life imprisonment with no eligibility of parole for 25 years. In arriving at her decision, the Court described Therrien's deeds as "acts of evil" that terrorized the community.

R. v. Todd Bertuzzi

In the spring of 2004 the Vancouver Canucks and the Colorado Avalanche were division rivals in the National Hockey League, a professional hockey league considered to be the premiere league in the world. On March 8, 2004, the Avalanche were set to play the Canucks in Vancouver. There had been significant media speculation that Vancouver players were likely to avenge a questionable hit by Avalanche player Steve Moore on Vancouver star centre Markus Naslund a few weeks earlier.

Leading up to the third period of the game, several Vancouver players had tried to entice Avalanche player Moore into a fight and were successful on one occasion. The game was a one-sided match in favour of the Avalanche, with the conference and division race between the two teams being neck and neck. At the 8:41 mark of the third period, with the score 8 – 2 in favour of the Avalanche, star forward Todd Bertuzzi remained on the line after a line change and crossed the ice toward Moore. He attempted to engage Moore in a consensual fight; Moore declined and turned away back up the ice. Bertuzzi then struck Moore on side of the head with a gloved hand causing him to loose consciousness and fall to the ground. Moore suffered "avulsion" fractures in his neck as well as a laceration to his face from striking the ice.

On June 24, 2004, the Crown charged Bertuzzi with one count of assault causing bodily harm. On December 22, 2004, Bertuzzi plead guilty to the charge and received a conditional discharge including 18 months probation and community service. During the sentencing a video was played in which Bertuzzi accepted responsibility for his actions and apologized once again to Moore. Bertuzzi went on to describe his conduct as having no part in hockey and encouraged everyone to "respect society's limits, which are about respecting each other."

R. v. Kelly Ellard

The beating and murder of 14-year-old Reena Virk in November 1997 captured worldwide media attention and opened debate on the issue of teenage violence.

Evidence led at the trial described a vicious beating of Virk under a bridge by several female teenagers and a male teenager, Warren Glowatski. Virk was observed staggering across the bridge after the attack, with Kelly Ellard and Glowatski a short distance behind. At a park on the other side of the bridge, Ellard and Glowatski beat Virk and drowned her in the Gorge Waterway. Her body was discovered a week later after police were provided with information leading to the beating and murder.

After three trials, a jury convicted Ellard of second-degree murder following five days of deliberation in spring 2005.

continued...

R. v. Ellard continued...

Previously, in March 2000, a jury convicted Ellard of second-degree murder but the conviction was overturned by the Court of Appeal and a new trial was ordered. In July 2004 Ellard's second trial ended with a hung jury. The third trial began on February 21, 2005, and lasted six weeks.

Ellard joins Warren Glowatski as the two youths found guilty in the murder of Reena Virk.

Criminal Justice Branch Financial Summary

	Fiscal 01/02	Fiscal 02/03	Fiscal 03/04	Fiscal 04/05	Fiscal 05/06	Fiscal 06/07	Fiscal 07/08
Budget	77,913,000	79,000,000	77,839,000	77,952,000	81,799,000	84,816,000	84,520,000
Expenditures	77,400,000	75,540,000	77,146,000	76,896,000			
Surplus (Deficit)	513,000	3,460,000	693,000	1,056,000			
FTE Budget	761	725	735	719	737	759	759
FTE Usage	780	711	713	702			
Surplus (Deficit)	-19	14	23	17			

Notes:

1. Expenditure amounts are rounded to the nearest thousand.

2. Budget, FTE, and expenditure amounts do not include certain major prosecutions that are now before the courts.

3. The fiscal 2001/02 Criminal Justice Branch budget includes a $278,000 post-Estimates increase adjustment.

4. The Criminal Justice Branch reductions that formed the three-year budget reduction targets from fiscal 2002/03 to 2004/05 totalled $8,238,589 although the reductions are offset by funding increases for items such as wage and Law Society fee increases. Over the three years, the branch budget increased by $39,000.

5. In fiscal 2005/06, the Criminal Justice Branch budget increases by $3,847,000 due to funding associated with the increase in police resources, funding received for a dedicated Organized Crime Unit, as well as Crown lockstep, building occupancy and amortization pressures. These increases are partially offset by budget transfers to Common Information Technology Services (CITS) for the centralization of voice charge budgets, as well as the transfer of the Criminal Justice Reform Office to the Deputy Attorney General's area.

6. Fiscal 2006/07 and 2007/08 budgets do not contain any amounts for Crown salary increases as mandated by Bill 21. The fiscal 2006/07 impact of Bill 21 is currently calculated at $6,810,000.

APPENDIX A *appendix a*

Crown Counsel Act [RSBC 1996] Chapter 87

Section

1 Definitions
2 Functions and responsibilities of the Criminal Justice Branch
3 Assistant Deputy Attorney General
4 Responsibilities of Crown Counsel
4.1 British Columbia Crown Counsel Association Agreement
5 Directions from Attorney General on specific prosecutions
6 Policy directive from Attorney General
7 Special prosecutors
8 Delay in publication

Definitions

1. In this Act:
"ADAG" means the Assistant Deputy Attorney General, Criminal Justice Branch;
"Branch" means the Criminal Justice Branch of the Ministry of Attorney General;
"offence" means an offence
(a) under the *Criminal Code* or any other enactment of Canada with respect to which the Attorney General of British Columbia may initiate and conduct a prosecution, and
(b) under an enactment of British Columbia.

Functions and responsibilities of the Criminal Justice Branch

2. The Branch has the following functions and responsibilities:
(a) to approve and conduct, on behalf of the Crown, all prosecutions of offences in British Columbia;
(b) to initiate and conduct, on behalf of the Crown, all appeals and other proceedings in respect of any prosecution of an offence in British Columbia;
(c) to conduct, on behalf of the Crown, any appeal or other proceeding in respect of a prosecution of an offence, in which the Crown is named as a respondent;
(d) to advise the government on all criminal law matters;
(e) to develop policies and procedures in respect of the administration of criminal justice in British Columbia;
(f) to provide liaison with the media and affected members of the public on all matters respecting approval and conduct of prosecutions of offences or related appeals;
(g) any other function or responsibility assigned to the Branch by the Attorney General.

Assistant Deputy Attorney General

3. (1) The ADAG is charged with the administration of the Branch and with carrying out the functions and responsibilities of the Branch under section 2.
(2) The ADAG is designated, for purposes of section 2 of the *Criminal Code*, as a lawful deputy of the Attorney General.

Responsibilities of Crown Counsel

4. (1) The ADAG may designate as "Crown counsel" any individual or class of individual who is lawfully entitled to practise law in British Columbia.
(2) Each Crown counsel is authorized to represent the Crown before all courts in relation to the prosecution of offences.
(3) Subject to the directions of the ADAG or another Crown counsel designated by the ADAG, each Crown counsel is authorized to
(a) examine all relevant information and documents and, following the examination, to approve for prosecution any offence or offences that he or she considers appropriate,
(b) conduct the prosecutions approved, and
(c) supervise prosecutions of offences that are being initiated or conducted by individuals who are not Crown counsel and, if the interests of justice require, to intervene and to conduct those prosecutions.
(4) The Attorney General may establish an appeal process under which law enforcement officials may appeal the determination of any Crown counsel or special prosecutor not to approve a prosecution.

British Columbia Crown Counsel Association Agreement

4.1 (1) In this section:
"BCCCA" means the British Columbia Crown Counsel Association, a society incorporated under the *Society Act*;
"Crown Counsel" means an individual described in section 4 (1) who is an "employee" as defined in section 1 of the *Public Service Act* but does not include
(a) the Assistant Deputy Attorney General
(b) the Director, Special Justice Programs
(c) the Executive Director, Criminal Justice Branch
(d) the Regional Crown counsel
(e) the Deputy Regional Crown counsel
(f) the Director, Criminal Appeals
(g) the Director, Legal Services
(h) the Communications Officer
(i) the Director, Policy and Legislation
(j) the Deputy Director, Commercial Crime
(k) the Deputy Director, Criminal Appeals, and
(l) the persons in other positions specified by agreement of the employer and the BCCCA.
"employer" means the government represented by the Public Service Employee Relations Commission.

(2) The BCCCA is the exclusive bargaining agent for all Crown counsel and is authorized to enter into agreements with the employer which must include all matters affecting wages or salary, hours of work and other working conditions, except the following:
(a) the principle of merit and its application in the appointment and promotion of employees, subject to section 4 (3) of the *Public Service Act*;
(b) a matter included under the *Public Sector Pension Plans Act*;
(c) the organization, establishment or administration of the ministries and branches of the government, except the effect of reductions in establishment of employees, which must be negotiated by the parties;

(d) the application of the system of classification of positions or job evaluation under the *Public Service Act*;

(e) the procedures and methods of training or retraining of all employees not affected by section 15 of the *Public Service Labour Relations Act*, other than training programs administered with a branch or ministry that apply to one occupational group only.

(3) The employer and the BCCCA must bargain collectively in good faith and make every reasonable effort to conclude agreements referred to in subsection (2).

Directions from Attorney General on Specific Prosecutions

5. If the Attorney General or Deputy Attorney General gives the ADAG a direction with respect to the approval or conduct of any specific prosecution or appeal, that direction must be:
(a) given in writing to the ADAG, and
(b) published in the Gazette.

Policy Directive from Attorney General

6. (1) If the Attorney General or Deputy Attorney General wishes to issue a directive respecting the Criminal Justice Branch policy on the approval or conduct of prosecutions, that directive must be given in writing to the ADAG and, in the discretion of the ADAG, may be published in the Gazette.

(2) If the Attorney General or Deputy Attorney General wishes to issue a directive respecting the administration of the Branch, that directive must, if requested by the ADAG, be given in writing and may, in the discretion of the ADAG, be published in the Gazette.

Special Prosecutors

7. (1) If the ADAG considers it is in the public interest, he or she may appoint a lawyer, who is not employed in the Ministry of Attorney General, as a special prosecutor.

(2) A special prosecutor must carry out his or her mandate, as set out in writing by the ADAG, and in particular must
(a) examine all relevant information and documents and report to the ADAG with respect to the approval and conduct of any specific prosecution, and
(b) carry out any other responsibilities respecting the initiation and conduct of a specific prosecution.

(3) If the ADAG appoints a special prosecutor, the ADAG must advise the Deputy Attorney General
(a) that a special prosecutor has been appointed, and
(b) the name of the special prosecutor.

(4) If, after a special prosecutor receives the mandate under subsection (2), the Attorney General, Deputy Attorney General or ADAG gives a direction to a special prosecutor in respect of any matter within the mandate of the special prosecutor, that direction must be given in writing and be published in the Gazette.

(5) Subject to the mandate given to the special prosecutor by the ADAG or to a directive referred to in subsection (4), the decision of a special prosecutor with respect to any matter within his or her mandate is final, but a decision not to approve a prosecution may be appealed by a law enforcement officer under the process established by section 4 (4).

Delay in Publication

8. (1) The Attorney General, Deputy Attorney General or ADAG may direct publication in the Gazette of those matters referred to in section 5 or 7 be delayed if to do so would be in the interests of the administration of justice.

(2) A delay under subsection (1) must not extend beyond the completion of the prosecution or matter or any related prosecution or matter.

APPENDIX B *appendix b*

Criminal Justice Branch Assistant Deputy Attorney Generals

Note: Neil McDiarmid was the Director, Criminal law for the Province from 1967 until 1978 when he was appointed Assistant Deputy Attorney General of the Criminal Justice Branch.

Neil McDiarmid, appointed 1978

Alan Edward Filmer, appointed May 8, 1981

Dennis Thomas Robert Murray, appointed April 1, 1986

William F. Stewart, appointed October 17, 1990

Ernie Quantz, appointed June 23, 1993

Austin Cullen, appointed April 13, 2000

Robert W. G. Gillen, appointed March 23, 2001

APPENDIX C *appendix c*

Ministry of Attorney General: Vison, Mission, Culture & Values Statement

Vision

A province governed by the rule of law with an effective justice system serving all British Columbians.

The Rule of Law

The rule of law is a fundamental principle in a free and democratic society. It guarantees that law is supreme and that the exercise of public power requires a source in some legal rule. It shields individuals from arbitrary action.

Mission

We are responsible in government for law reform, for the administration of justice and for seeing that public affairs are administered in accordance with the law.

Our goals are:

1. A Ministry that is a leader in law reform and innovative justice processes.
2. An effective criminal justice system.
3. An effective civil justice system.
4. Effective legal services enabling government to administer public affairs in accordance with the law.

The Unique Role of the Attorney General

The Attorney General is the Law Officer of the Crown and has a unique role in government as the person who must see that the public affairs are administered in accordance with the law.

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Culture and Values

We are dynamic and innovative leaders in justice and public administration.

Our values and operating principles are:

1. To be performance and service focused.

2. To honour members of the Ministry and support them in their learning and development.

3. To act with professional integrity, independent from interference.

4. To be forthright and strategic.

5. To be collaborative and inclusive within the justice system and with the public that we serve.

6. To adhere to the core values of the BC public service, namely integrity, accountability, responsibility, respect and fostering innovation in providing services.

Independence in the Justice System

A free and democratic society based on the rule of law requires a justice system where decisions are made independently and free from interference. Justice system participants must act according to law and policy without being improperly influenced from outside sources or other participants in the system. Perhaps the clearest expression of independence is the independence of judges, who must be free to adjudicate cases without interference. Similarly, other participants in the justice system, such as police and Crown Counsel, must also make decisions free of interference or control by others. This independence ensures a fair system. It operates for the benefit of society and not the participating components of the system.

Equally, the justice system must serve the public interest and be open to public scrutiny to ensure that it does indeed serve the public interest. Justice system components must work together, recognizing the interdependence of the system without compromising the core principle of independence.

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